

SAN FRANCISCO PUBLIC LIBRARY



3 1223 06446 7468

5/5



San Francisco Public Library

Government Information Center
San Francisco Public Library
100 Larkin Street, 5th Floor
San Francisco, CA 94102

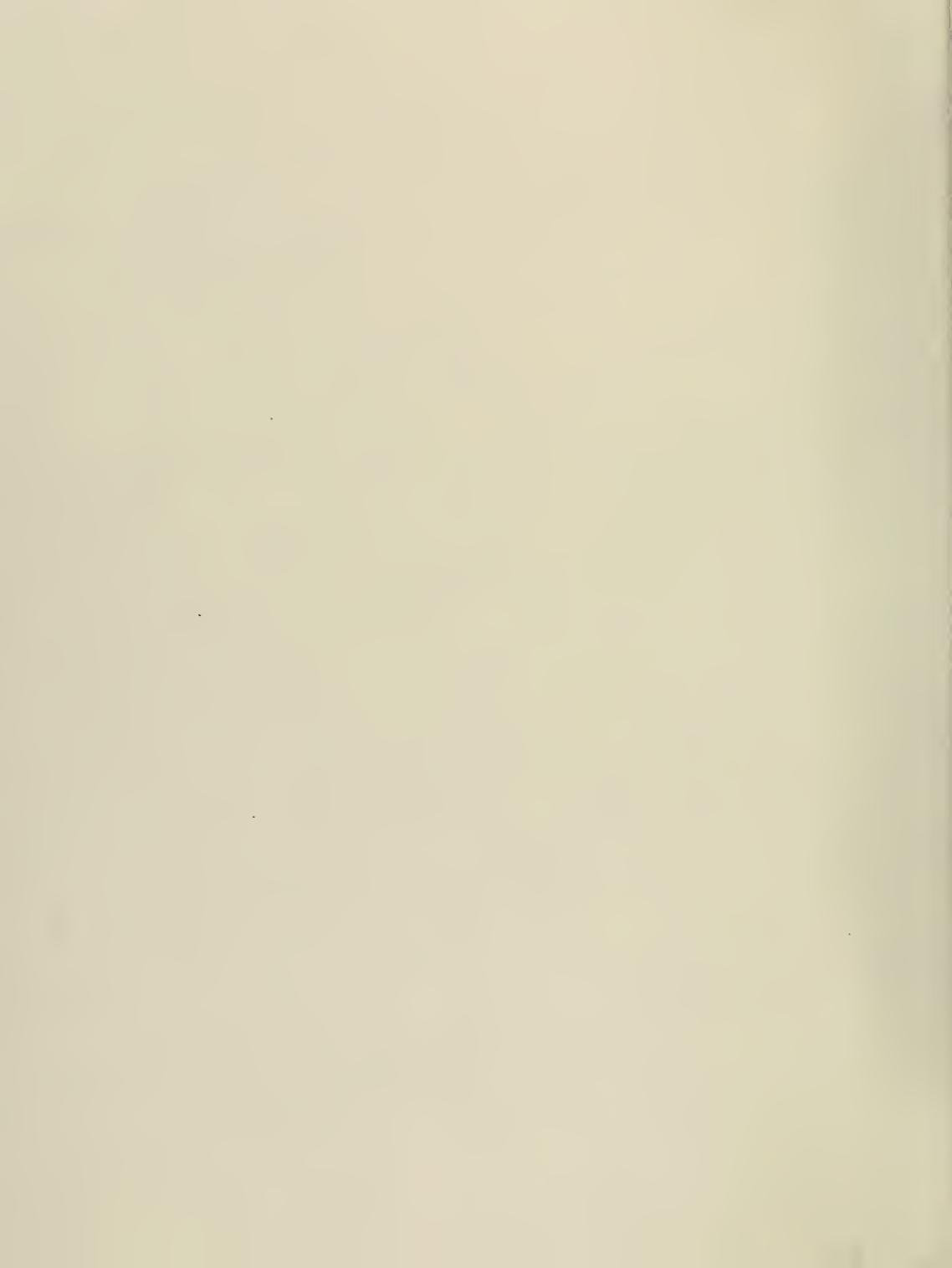
REFERENCE BOOK

Not to be taken from the Library

A very faint, light-colored watermark or background image of a classical building with four prominent columns and a triangular pediment is visible across the entire page.

Digitized by the Internet Archive
in 2012 with funding from
California State Library Califa/LSTA Grant

<http://archive.org/details/98minutesregular2003sanf>



City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
January 7, 2003

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

DOCUMENTS DEPT.

JAN 3 2003

SAN FRANCISCO
PUBLIC LIBRARY

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 1830 Clay St. #103 AT020526

One tenant appeals the decision granting rent increases based on increased operating expenses and certifying capital improvement costs on the grounds of financial hardship.

B. 503 Font Blvd. AT020523

One tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

C. 707 Gonzalez Dr. AT020524

One tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

D. 581 – 14th Ave. #2 AL020527

The landlord appeals the decision granting claims of decreased housing services.

E. 2229 Francisco St. AT020251

The tenant appeals the decision denying a claim of decreased housing services.

F. 1844 Mason St. AL020522



3 1223 06446 7468

The landlord appeals the decision denying a petition for rent increase based on the alleged additional housing service of a pet on the premises.

G. 1290 Grove St. #105

AL020525

The landlord appeals the decision granting a claim of decreased housing services due to the landlord's failure to consent to a replacement roommate.

H. 334 Second Ave.

AT020528

The tenant appeals the remand decision allowing banking in a non-comparable replacement unit rent determination case.

I. 5 Isadora Duncan Ln.

AL020520

The landlord appeals the portion of the decision determining the base rent for the unit.

VI. Appeal Hearing

6:30 1670 Clay St.

AT020245
(acpt. 11/19/02)

VII. Communications

VIII. Director's Report

IX. Old Business

Proposed Amendments to Rules and Regulations Section 1.18

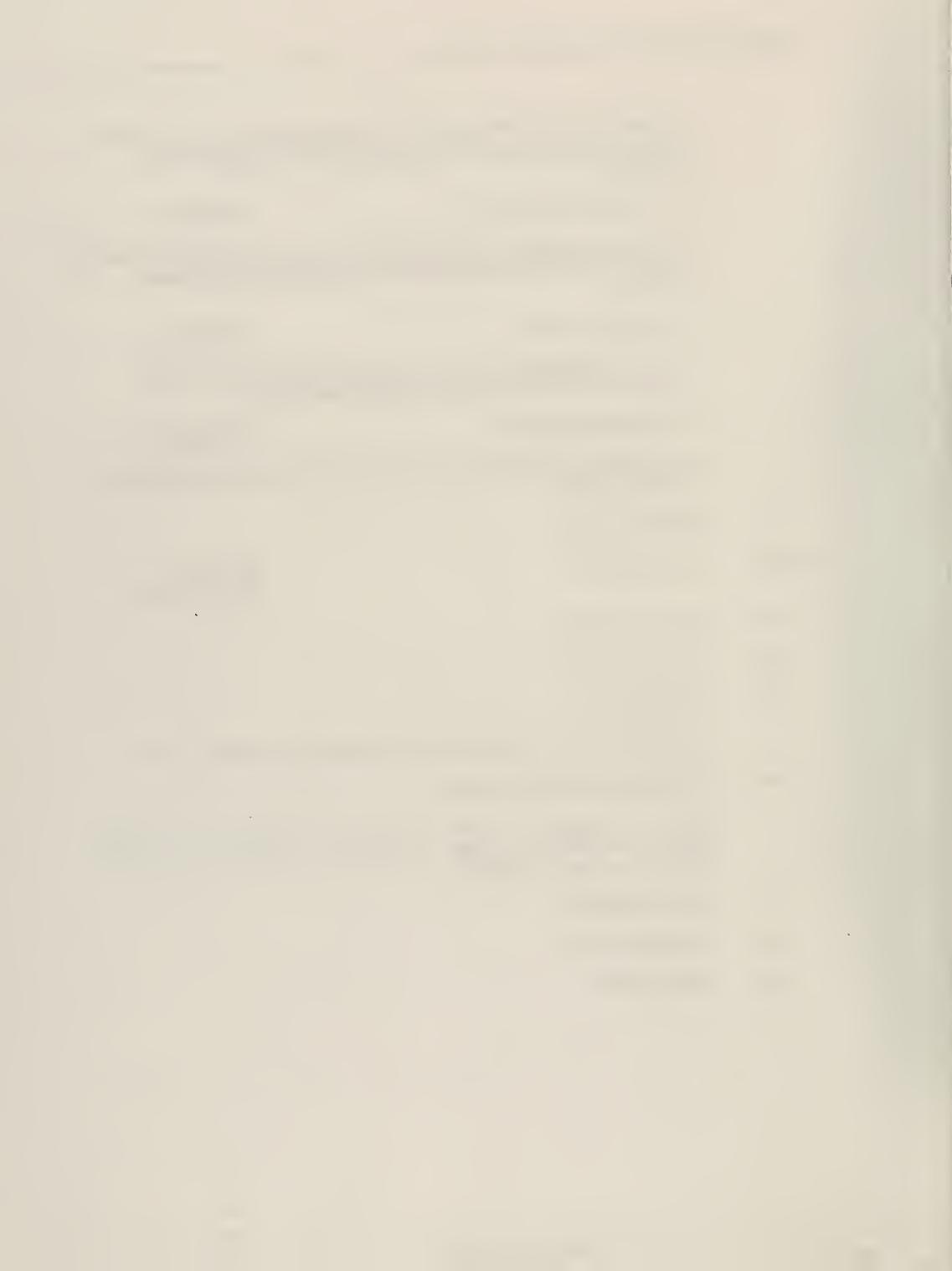
IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



SHARON K. WASSERMAN
PRESIDENT

7/03
POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization and Arbitration Board

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, January 7, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

JAN 16 2003

KHIN MAI AUNG

LARRY BEACH BECKER

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Wasserman called the meeting to order at 6:15 p.m.

II. Roll Call

Commissioners Present: Aung; Gruber; Marshall; Murphy;
Wasserman.

Commissioners not Present: Becker; Lightner; Mosser.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 17, 2002.
(Gruber/Murphy: 4-0)

IV. Remarks from the Public

Robert Pender, Vice-President of the Parkmerced Residents' Organization (PRO), told the Board that management has divided Parkmerced into four divisions, and changed where tenants are supposed to pay their rent. Mr. Pender is concerned because management has given 3-Day notices in the past. He wonders if this is in retaliation for Parkmerced tenants voting against Proposition R on the November ballot.

V. Consideration of Appeals

A. 1830 Clay St. #103

AT020526

The tenant's appeal was filed one day late because the tenant did not understand the difference between business and calendar days, and Veteran's Day was a holiday.

MSC: To find good cause for the late filing of the appeal.
(Murphy/Gruber: 4-0)

The landlords' petition for rent increases based on increased operating expenses to 21 units was granted. One tenant appeals the decision on the grounds of financial hardship.



MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Murphy: 4-0)

B. 503 Font Blvd.

AT020523

The landlord's petition for rent increases for 2,702 of 3,456 units based on increased operating expenses was granted, resulting in 7% base rent increases for the majority of the tenants. The tenant in unit 503 Font Blvd. appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Murphy/Marshall: 3-1; Gruber dissenting)

C. 707 Gonzalez Dr.

AT020524

The landlord's petition for rent increases for 2,702 of 3,456 units based on increased operating expenses was granted, resulting in 7% base rent increases for the majority of the tenants. The tenant at 707 Gonzalez Drive appeals the decision on the grounds of financial hardship.

MSF: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Justman: 2-2; Gruber, Murphy dissenting)

Consideration of this appeal was continued to the meeting on February 4th, when another voting Tenant Commissioner will be present.

D. 581 – 14th Ave. #2

AL020527

The landlord's appeal was filed over two years late because the landlord's son, who is pursuing the appeal, was only recently provided with a copy of the decision, and he was not involved with the business aspects of managing the property at the time the decision was issued.

MSC: To find no good cause for the late filing of the appeal; the decision is therefore final. (Marshall/Murphy: 3-1; Gruber dissenting)

The tenant's petition alleging decreased housing services because of habitability defects on the premises was granted, in part, and the landlord was found liable to the tenant in the amount of \$6,980.00. The landlord appeals only the portion of the decision granting the tenant a rent reduction in the amount of \$125.00 per month due to loss of use of the garage, asserting that: the tenant did not prove he was entitled to park in the garage because he had no written agreement so stating; the prior landlord provided no information regarding the tenant's use of the garage; the tenant failed to prove that he was paying \$50.00 per month for parking; if the tenant was paying \$50.00 per month for parking, then \$125.00 per month should not have been granted; his father was 89 years old at the time of the hearing, and did not effectively represent himself; and the tenant failed to provide access in order for the repairs to be effectuated.

E. 2229 Francisco St.

AT020251

The tenant's petition alleging a decrease in housing services due to the loss of closet space was denied because the Administrative Law Judge found that the loss was not substantial, as the tenant's belongings were moved to another closet in the unit. On appeal, the tenant claims that: the decision is inaccurate and incomplete; there was inadequate time for the hearing; and he has suffered a substantial reduction in housing services because the closet he now uses is smaller and cramped.

MSC: To deny the appeal. (Gruber/Murphy: 4-0)

F. 1844 Mason St.

AL020522

The landlord filed a petition seeking a rent increase in the amount of \$100 per month, claiming that the presence of a cat on the premises was an additional housing service added after the commencement of the tenancy. The petition was denied, because the Administrative Law Judge found that the landlord had allowed the tenants to move into the unit with two cats. Additionally, the landlord had waived the "No Pets" clause in the lease by having known about the cats throughout the tenancy. On appeal, the landlord argues that: if the landlord had given them permission to have pets, the tenants would have had the lease amended to reflect that understanding; the landlord's now deceased husband was too ill to have met with the tenants prior to the commencement of their tenancy; the landlord's son was often at the subject premises, and rarely saw the tenants' cats; the "No Pets" clause in the lease was not waived, because the landlord no longer saw the tenants' cats after having issued warnings to the tenants; and the tenants' credibility should be impeached by their conduct in other cases before the Board.

MSC: To deny the appeal. (Marshall/Murphy: 4-0)

G. 1290 Grove St. #105

AL020525

The tenant's petition alleging a substantial decrease in housing services due to the landlord's failure to consent to a replacement roommate was granted, and the landlord was found liable to the tenant in the amount of \$6,570.20. On appeal, the landlord asserts that: the tenant was not attempting to replace a roommate but, rather, intended to sublet the whole unit; it is improper to grant a rent reduction consisting of 95% of the rent, since 50% of the living space should be imputed to the tenant; the Administrative Law Judge has improperly awarded prospective damages; the tenant failed to attempt to mitigate his damages; a person who colludes with a tenant to violate a material provision of the lease can be rejected for cause; and the tenants in this case had "unclean hands."

MSC: To recuse Commissioner Murphy from consideration of this appeal. (Murphy/Justman: 4-0)

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to grant a 50% rent reduction instead of a 95% rent reduction due to the landlord's failure to consent to the replacement roommate.
(Gruber/Marshall: 3-0)

H. 334 Second Ave.

AT020528

The landlords filed a petition seeking a determination of the initial rent for a non-comparable replacement unit. The base rent for the replacement unit was set at

\$970.00, and it was determined that the landlords had no banked rent increases. Upon appeal by the landlords, the Board remanded the case to the Administrative Law Judge to find that, under the facts of this case, there is a continuing tenancy and the landlord does not lose the right to impose banked rent increases prospectively. The tenant appeals the remand decision, arguing that a Stipulation for Entry of Judgment and General Release executed by the parties should bar the imposition of banked increases.

MSC: To deny the appeal. (Murphy/Gruber: 4-0)

I. 5 Isadora Duncan Lane

AL020520

The tenant's petition alleging decreased housing services and an unlawful rent increase was denied. However, the premises were found to be subject to the jurisdiction of the Rent Ordinance and the base rent for the unit was determined to be \$400.00 per month. The landlord appeals the portion of the decision determining the rent to be \$400.00, maintaining that: the tenant failed to prove that the rent was \$260.00 and, therefore, the rent should remain at \$600.00 per month; the landlords did not commence eviction proceedings against the tenant for valid reasons that did not mean they acceded to the tenant's payment of less than \$600.00 per month; and the tenant failed to refute that the rent was \$600.00 per month.

MSC: To deny the appeal. (Justman/Marshall: 4-0)

IV. Remarks from the Public (cont.)

B. Hamzy Shirry, the tenant at 5 Isadora Duncan Lane (AL020520), told the Commissioners that the rent has been paid over the past year. He said that the new landlord turned a residential hotel into a youth hostel. Mr. Shirry alleged that he has been deprived of heat, and said that he was "insulted and offended." The tenant stated that he is not fighting for himself, but to "uphold the law."

VI. Appeal Hearing

1670 Clay St.

AT020245
(acpt. 11/19/02)

The landlord filed a petition seeking a determination as to whether the unit constituted the tenant's principal place of residence. The Administrative Law Judge found that the tenant was not a "Tenant in Occupancy" pursuant to Rules and Regulations Section 1.21 because she had resided in a unit in Florida which she owned with her mother for over one year, and that was the place to which she returned after traveling or job-related training. The tenant's appeal was accepted and the case was remanded to the Administrative Law Judge to examine whether the unit constituted the tenant's principal place of residence between the date of enactment of Rules and Regulations Section 1.21 and the date of filing of the petition, with instructions that behavior before the date of enactment of the regulation and up until the date of the hearing could be considered. In the Decision on Remand, the Administrative Law Judge upheld the original decision, finding that the tenant was not a "Tenant in Occupancy" at the time the petition was filed, although the tenant had returned to the San Francisco unit in response to the filing of the petition. On further appeal, the tenant maintained that she meets all of the indices of residency contained in Rules Section 1.21. At their meeting on November 19, 2002, the Board accepted the appeal for Board hearing on the issue of the tenant's intent to return to the unit. The

Commissioners specified that the parties would have ten minutes for direct examination; ten minutes for cross-examination; and five minutes for closing arguments

The appeal hearing began at 7:07 p.m. and concluded at 8:07. In attendance were the tenant, Gloria Stella Botelle, with her attorney, Paul Clifford; the landlord, Garret Tom, appeared with his attorney, Karen Uchiyama. Testimony at the hearing focused on the transfer of the tenant's property in Florida, the reasons for the tenant's prolonged stay in Florida, and evidence of an intent to return to her unit in San Francisco. At the conclusion of the hearing and after discussion of the testimony and evidence, the Board voted as follows:

MSC: To grant the tenant's appeal and vacate the Decision on Remand to find that she is a Tenant in Occupancy pursuant to Rules and Regulations Section 1.21.

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a Letter of Resignation from Commissioner Aung, who is moving to New York, and whose last Board meeting will be on January 21st.

VIII. Director's Report

Executive Director Grubb informed the Board that the interest rate on security deposits commencing March 1, 2003 would be 1.2%. The Interest on Deposits Ordinance will possibly be amended to require only one interest calculation per year, to eliminate the need for pro-rating.

IX. Old Business

Proposed Amendments to Rules and Regulations Section 1.18

The Board continued their discussion of the problem of evictions pursuant to Rules and Regulations Section 1.18. As currently written, this Section permits evictions for substantial rehabilitation to occur before any hearing is held or the actual costs of the work are certified. Tenants can therefore be evicted and not realize they have the right to reoccupy the unit, although the subsequent petition for exemption may be denied due to the failure of the owner to meet the expenditure requirements. The proposed amendment, authored by Commissioner Aung, is intended to provide guidance to landlords and tenants by creating a rebuttable presumption that the costs on the approved construction permits are the estimated cost of the proposed work. The proposal also requires that a landlord who recovers a unit or units pursuant to Section 37.9(a)(12) must file a petition for exemption within one year of recovery of the unit or be deemed to have wrongfully recovered possession in violation of Section 37.9(f).

MSC: To vote the proposed amendments to Rules and Regulations Section 1.18 out for Public Hearing. (Marshall/Murphy: 4-0)

IV. Remarks from the Public (cont.)

C. The tenant involved in the appeal hearing concerning 1670 Clay St. (AT020245), Gloria Stella Botelle, thanked the Board for ruling in her favor. She told

the Commissioners that she has been subjected to harassment, and that what she said was "true."

D. Robert Pender asked that Agenda items be "put in English," since he did not know what was meant by "Proposed Amendments to Rules and Regulations Section 1.18."

X. Calendar Items

January 14, 2003 - NO MEETING

January 21, 2003

11 appeal considerations (1 rescheduled from 12/3/02; 1 cont. from 12/17/02)

XI. Adjournment

President Wasserman adjourned the meeting at 8:48 p.m.

City and County of San Francisco



**Residential Rent Stabilization
and Arbitration Board**

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
January 21, 2003

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

JAN 16 2003

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 50 Edgar Pl. AT020507
(cont. from 12/17/02)

The tenant appeals the dismissal of her petition alleging decreased housing services due to her failure to appear at the hearing.

B. 1524 Waller St. AT020553

The tenant appeals the dismissal of his petition alleging improper calculation of a PG&E passthrough due to his failure to appear at the hearing.

C. 50 Chumasero Dr. #3C AT020555

The tenants appeal the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

D. 3833 – 20th St. AT020562

The tenants appeal the dismissal of their petition alleging decreased housing services due to their failure to appear at the hearing.

E. 55 Dolores St. AL020496
(rescheduled from 12/3/03)

The landlords appeal the decision partially certifying capital improvement costs.



F. 1751 Market St. #19 & #61 AT020533

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

G. 410 Waller St. AT020534

The tenant appeals the decision denying a claim of decreased housing services .

H. 3617 – 17th St. AT020531

The tenant appeals the remand decision determining that she is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

I. 520 So. Van Ness #290 AL020532

The landlord appeals the decision granting claims of decreased housing services.

J. 857 Clay St. AT020535 thru -52

The tenants in fifteen units appeal the decision certifying capital improvement costs on the grounds of financial hardship.

K. 710 Clayton St. AT020556 - 61

The tenants in six units appeal the decision certifying capital improvement costs.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



**Residential Rent Stabilization
and Arbitration Board**

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

Tuesday, January 21, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JAN 30 2003

I. Call to Order

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:15 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Aung; Becker; Gruber; Lightner; Marshall;
Mosser; Murphy; Wasserman.

Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:21 p.m.

III. Remarks from the Public

Prior to taking remarks from the public, President Wasserman announced that this would be Commissioner Aung's last meeting, as she is moving to New York. President Wasserman expressed the Board's good wishes, and noted how much she had appreciated Commissioner Aung's passion, eloquence and fair-mindedness. Commissioner Aung told the Commissioners that serving on the Board had been an unexpected pleasure, and commended them for their principles and ability to compromise.

A. Attorney Gen Fujioka of the Asian Law Caucus, representing the tenants at 857 Clay St. (AT020535 thru-52), explained his complaint under the Equal Access to Services Ordinance (Administrative Code Chapter 89). Mr. Fujioka acknowledged that Executive Director Grubb was correct in describing the bilingual services that are offered by the Department, in his response to Mr. Fujioka's complaint. However, Mr. Fujioka believes that these measures do not deal with the obstacles faced by unrepresented parties, and that the "initial access point to the availability of services is missing."

B. Attorney Karen Uchiyama, representing the landlord at 3833 – 20th St. (AT020562), said that the landlord objects to the tenants' appeal because they are no longer in possession of the unit and she believes they do not have standing to pursue the appeal. Ms. Uchiyama also maintains that the tenants did receive notice of the hearing.

IV. Consideration of Appeals

A. 50 Edgar Pl.

AT020507
(cont. from 12/17/02)



The tenant appealed the dismissal of her petition alleging decreased housing services due to her failure to appear at the properly noticed hearing. On appeal, the tenant claimed not to have received notice of the hearing. The tenant failed to respond to a Memorandum from the Deputy Director, directing her to provide a Declaration of Non-Receipt of Notice of Hearing. As the tenant is not a native English speaker, the Board continued this appeal at the meeting on December 17th in order for staff to contact the tenant again. Subsequently, the tenant provided the required Declaration.

MSC: To accept the appeal and remand the case for a new hearing.
(Becker/Marshall: 5-0)

B. 1524 Waller St.

AT020553

The tenant's petition alleging improper calculation of a PG&E passthrough was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant, who is a senior, admits that he struggles with memory loss and asks to be granted another hearing.

MSC: To accept the appeal and remand the case for a new hearing.
Should the tenant again fail to appear, absent extraordinary circumstances, no further hearings will be granted.
(Becker/Lightner: 5-0)

C. 50 Chumasero Dr. #3C

AT020555

The tenants' appeal was filed over two months late because the tenants do not read or write English and the person who translates for them was out of town for six months.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The landlord's petition for rent increases based on increased operating expenses was granted, resulting in 7% increases in tenants' base rents. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Becker/Lightner: 5-0)

D. 3833 – 20th St.

AT020562

The tenants' petition alleging decreased housing services was dismissed due to their failure to appear at the properly noticed hearing. On appeal, the tenants claim not to have received notice of the hearing, and attach Declarations so attesting.

MSC: To recuse Commissioner Becker from consideration of this appeal.
(Marshall/Becker: 5-0)

MSC: To accept the appeal and remand the case to the Administrative Law Judge to change the Dismissal of the tenants' petition to "without prejudice." (Marshall/Lightner: 4-0)

E. 55 Dolores St.

AL020496

(rescheduled from 12/3/02)

The landlords' petition for certification of capital improvement costs to the tenants in five units was granted, in part. The landlords appeal the disallowance of certain items, claiming that: the removal of the old fence and ivy were incidental to dry rot work, which constituted a capital improvement, and the tenants failed to object to certification of this work; the replacement of nine glass panels was improperly characterized as a repair; the dry rot work performed on the lower balcony of unit #3 did not benefit any of the other units in the building, and should only have been allocated to unit #3; the landlord was not provided with an opportunity to amend the petition; and the Rent Board has arbitrary standards for allocation of capital improvement costs.

MSF: To accept the appeal and remand the case on the issue of the allocation of the balcony enclosure and dry rot work; the landlord shall be permitted to amend the petition to allocate the cost to the tenants in all units, however, the issue of whether the cost should be allocated to any tenant at all shall be addressed.

(Marshall/Becker: 2-3; Gruber, Justman, Lightner dissenting)

MSC: To deny the appeal. (Justman/Gruber: 4-1; Lightner dissenting)

F. 1751 Market St. #19 & #61

AT020533

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims that he thought the hearing commenced at noon instead of 9:00 a.m. and asks to be granted another hearing.

MSC: To accept the appeal and remand the case for a new hearing. Should the tenant again fail to appear, absent extraordinary circumstances, no further hearings will be granted.

(Becker/Marshall: 5-0)

G. 410 Waller St.

AT020534

The tenant's appeal was filed nine days late because the organization she approached for counseling originally was closed and she came down with the flu.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The tenant's petition alleging a substantial decrease in housing services was denied because it was found that the tenant failed to prove that she had suffered a loss of quiet enjoyment of the unit nor that the landlord had unreasonably withheld consent for a replacement roommate. On appeal, the tenant claims that the Administrative Law Judge failed to address her contention that the landlord forced her to sign a materially different rental agreement in retaliation for her having filed a previous Rent Board petition.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

H. 3617 – 17th St.

AT020531

The landlord filed a petition seeking a determination as to whether the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21. The Administrative Law Judge denied the landlord's petition, finding that the tenant is a "Tenant in Occupancy." Upon appeal by the landlord, the Rent Board Commissioners remanded the case to the Administrative Law Judge to vacate the decision and find that, under these facts, the tenant is not a "Tenant in Occupancy." The tenant appeals the remand decision on the grounds that: there was insufficient evidence to prove that the tenant was not a "Tenant in Occupancy;" the erasure of the tape of one of the days of hearing has prejudiced the tenant; and the Board's decision in this case was based on facts that were received after the close of the record.

MSC: To accept the appeal and remand the case for a new hearing.
(Becker/Marshall: 3-2; Gruber, Lightner dissenting)

I. 520 So. Van Ness #290

AL020532

The tenant's petition alleging decreased housing services was granted, and the landlord was found liable to the tenant in the amount of \$1,250.00 due to the lack of heat and hot water in his single room occupancy hotel room. On appeal, the landlord asserts that: the tenant failed to provide supporting documents sufficient to meet his burden of proof; and work order requests provided by the landlord show that the tenant did have heat in his unit on the dates in question.

MSC: To accept the appeal and remand the case for a new hearing.
(Gruber/Lightner: 4-1; Marshall dissenting)

J. 857 Clay St.

AT020535 thru -52

The appeals of the tenants in unit numbers 308, 414 and 417 were filed one day late because the tenants are monolingual Chinese speakers and materials concerning the appeals process were provided in English only.

MSC: To recuse Commissioner Mosser from consideration of these appeals. (Lightner/Gruber: 5-0)

MSC: To find good cause for the late filing of the appeals.
(Becker/Lightner: 5-0)

The landlord's petition for certification of seismic upgrading of the building to 34 of 49 units was granted, resulting in a monthly passthrough in the amount of \$26.17. The tenants in fifteen units appeal the decision on the grounds of financial hardship. Through their representative, the tenants in those units and in three additional units assert that the Rent Board is deficient in providing services to monolingual Chinese speakers because: notices and information regarding the process are only provided in English; and interpretation was not provided at the hearing. The tenants also allege that the decision is in error in finding that there are no commercial units in the building.

MSC: To accept the appeals and remand the case for a new hearing for all tenants included in the petition; translation will be provided at the hearing; and any hardship appeals that were filed will be held in abeyance pending the issuance of a new decision.
(Becker/Marshall: 5-0)

K. 710 Clayton St.

AT020556 thru -61

The tenant in Apt. 6 filed his appeal six days late because the tenant was out of town on business at the time the decision was mailed; and the appeal was filed within fifteen days of the postmark date.

MSC: To recuse Commissioner Gruber from consideration of these appeals. (Lightner/Gruber: 5-0)

MSC: To find good cause for the late filing of the appeal. (Becker/Marshall: 5-0)

The landlord's petition for certification of capital improvement costs to the tenants in six units was granted, resulting in a monthly passthrough in the amount of \$78.02. On appeal, the tenants claim that: some of the work was more in the nature of repair than capital improvement; if the building had not been neglected by the landlord, the work would not have been as costly; painting of the east walls of the building was not related to the water damage; the removal of the asbestos plumbing insulation was required by law; the new heating system interferes with the tenants' quiet enjoyment of their units; some of the tenants may be facing a financial hardship; and a report from an independent estimator should be obtained.

MSC: To deny the appeals. (Lightner/Gruber: 5-0)

V. Communications

The Commissioners received correspondence concerning cases on the calendar.

VI. Director's Report

Executive Director Grubb told the Commissioners that he would present a proposed budget at the next Board meeting, which will be very similar to this year's budget except for some one-time costs. He also informed the Board that it is likely that the Security Deposit Interest Ordinance (Chapter 49 of the Administrative Code) will be amended so that landlords will just pay the rate in effect on the anniversary date for the interest payment, rather than having to pro-rate between different rates that are in effect during the year.

III. Remarks from the Public (cont.)

C. Art Heyman, the landlord in the case concerning 3617 – 17th St. (AT020531), asked whether the remand hearing could be restricted to the same witnesses who attended the first hearing. He also expressed his suspicions, since the tape that was accidentally erased contained the testimony of the tenant's witnesses. He asked whether the Rent Board had made an effort to retrieve the erased information from an audio forensics lab.

D. Michael Taipale, the tenant at 520 So. Van Ness (AL020532), told the Board that the landlord's representative had agreed with everything the tenant had said at the hearing, and was now manufacturing new evidence. Mr. Taipale said that he "finally got someone who wouldn't lie on their behalf," and now he has to start all over.

E. Yvonne Ellingson, who was present at the hearings concerning 3617 – 17th St. as a witness for the landlord, said that the landlord was put in the position of proving something that couldn't be proved. Ms. Ellingson believed that the Administrative Law Judge exhibited bias on the part of the tenant, and said that there is "no justice" in anything the Rent Board does.

F. Kietra Sutherland, also a witness for the landlord at 3617 – 17th St., lives next door to the subject building and said that the tenant hasn't lived there for several years, and that the tenant has been committing "illegal acts."

G. Tenant Proceso Emperio of 1524 Waller St. (AT020553) told the Board that he is a seaman who has traveled the world for twenty years. His rent at the inception of his tenancy was \$35.00 per month. He recently got a rent increase from \$350 to \$420, and he lives alone.

VII. New Business

Commissioner Marshall proposed that the Board adopt a policy that would allow an Alternate Board member to be a "floater", such that an Alternate could vote in the stead of either of the voting Commissioners should one be absent. Since the Landlord and Tenant Commissioners present concurred that this would increase the Board's efficiency, staff was asked to look into drafting such an amendment and exploring whether this would necessitate an Ordinance change, or could be accomplished through an amendment to the Rules and Regulations.

VIII. Calendar Items

January 28, 2003 - NO MEETING

February 4, 2003

6:30 11 appeal considerations (1 cont. from 12/17/02; 1 cont. from 1/7/03
Public Hearing:
 Proposed Amendments to Rules and Regulations Section 1.18
 Old Business: "Floating" Alternates

IX. Adjournment

President Wasserman adjourned the meeting at 8:02 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
February 4, 2003

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

DOCUMENTS DEPT.

KHIN MAI AUNG

LARRY BEACH BECKER

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

JAN 30 2003

II. Roll Call

SAN FRANCISCO
PUBLIC LIBRARY

III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 707 Gonzalez Dr.

AT020524
(cont. from 1/7/03)

One tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

B. 2911 – 16th St. #311

AT020629

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

C. 1121 Masonic #9

AT020565

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

D. 1830 – 19th Ave.

AL020563

The landlord appeals the decision granting a claim of unlawful rent increases.

E. 207 Gough St. #41

AT020564

The tenant appeals the decision granting a claim of improper calculation of a PG&E passthrough.

F. 1935 Franklin #503

AT020566



The tenants appeal the second remand decision granting a rent increase based on comparable rents.

G. 1935 Franklin

AL020489

(cont. from 12/17/02)

The landlord appeals the decision granting rent increases based on increased operating expenses.

H. 936 Scott St., Apt. 4

AT020567

One tenant appeals the decision granting certification of capital improvement costs.

I. 218 Union St. #3

AT020530

The tenant appeals the remand decision determining that he is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

J. 654 So. Van Ness

AT020568

The tenant appeals the decision denying a claim of failure to repair.

K. 1040 Dolores #107 & 206

AT020569 & -70

The tenants in two units appeal the decision certifying capital improvement costs.

VI. Public Hearing

6:30 Proposed Amendments to Rules and Regulations Section 1.18

VII. Communications

VIII. Director's Report

IX. Old Business

"Floating" Alternate Commissioners

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



1/13
1/2 hearing
1/2
SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Residential Rent Stabilization and Arbitration Board

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

January 14, 2003

NOTICE OF PUBLIC HEARING

DATE:	February 4, 2003
TIME:	6:30 P.M.
PLACE:	25 VAN NESS AVENUE (AT MARKET ST.) SUITE 70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO
COMMENT ON PROPOSED CHANGES TO THE RULES AND
REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION
AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN
FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE LANGUAGE
BELOW AMENDING SECTION 1.18. This section as currently written permits
evictions for substantial rehabilitation to occur before any hearing is held or
certification of true costs is made. Thus, tenants can be evicted, although the
subsequent petition for exemption may be denied due to the failure of the
owner to meet the expenditure requirements.

This revision is intended to provide better guidance to landlords and tenants by
creating a rebuttable presumption that the costs on the approved construction
permit(s) are the estimated cost of the proposed work. It also requires that a
landlord who recovers a unit or units under 37.9(a)(12) must file a petition for
exemption within one year of recovery or be deemed to have wrongfully
recovered possession in violation of 37.9(f).

The proposed language reads as follows on the next page (deletions indicated
with strikeouts; new language underlined):

DOCUMENTS DEPT.

JAN 15 2003

SAN FRANCISCO
PUBLIC LIBRARY

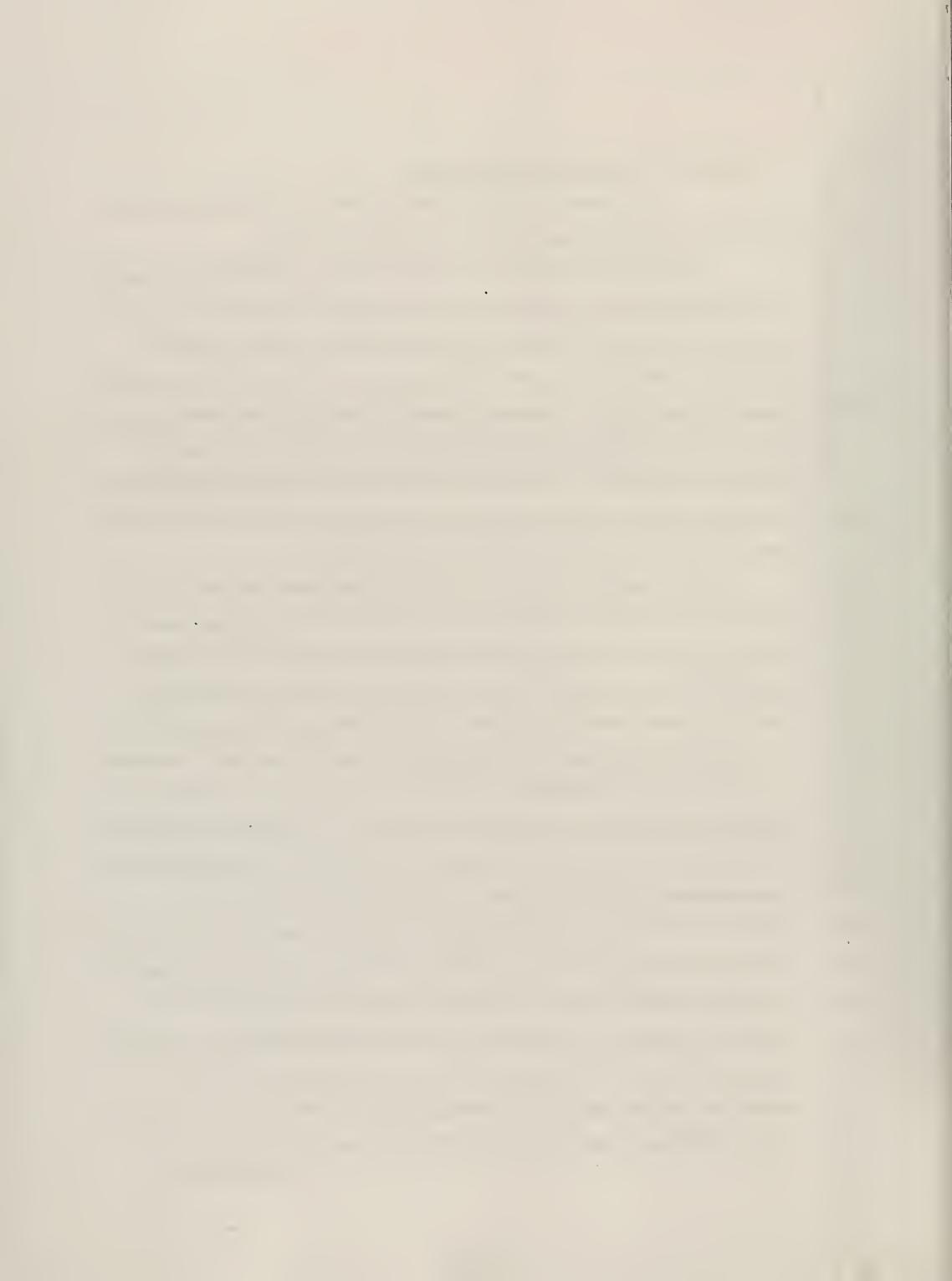
Section 1.18 Substantial Rehabilitation

(Amended August 29, 1989; September 5, 1989; September 26, 1989; June 18, 1991; renumbered effective February 1, 1995)

“Substantial rehabilitation” means the renovation, alteration or remodeling of a building containing essentially uninhabitable residential rental units of 50 or more years of age which require substantial renovation in order to conform to contemporary standards for decent, safe and sanitary housing in place of essentially uninhabitable buildings. Substantial rehabilitation may vary in degree from gutting and extensive reconstruction to extensive improvements that cure substantial deferred maintenance. Cosmetic improvements alone such as painting, decorating and minor repairs, or other work which can be performed safely without having the units vacated, do not qualify as substantial rehabilitation.

Improvements will not be deemed substantial unless the cost of the work for which the landlord has not been compensated by insurance proceeds equals or exceeds seventy-five percent (75%) of the cost of newly constructed residential buildings of the same number of units and type of construction, excluding land costs and architectural/engineering fees. The determination of ~~this estimated cost~~
the cost of newly constructed residential buildings shall be based upon construction cost data reported by Marshall and Swift, Valuation Engineers, as adapted for San Francisco and posted in January and June of each year in the ~~Bureau~~ Department of Building Inspection for purposes of determining permit fees. The schedule ~~posted~~
~~nearest in time to~~ in effect on the date of the Notice of Completion of the improvements shall apply. ~~Where the landlord is seeking to recover possession of a rental unit under Section 37.9(a)(12) of the Rent Ordinance, improvements will not be deemed substantial unless the estimated cost of the proposed work exceeds seventy-five percent (75%) of the cost of newly constructed residential buildings of the same number of units and type of construction, excluding land costs and architectural/engineering fees. For purposes of such evictions under 37.9(a)(12) of the Rent Ordinance, there shall be a rebuttable presumption that the cost~~

OVER, PLEASE



1 stated for the work in the applicable approved construction permits is the estimated
2 cost of the proposed work. For purposes of determining whether improvements are
3 substantial under Section 37.9(a)(12), the determination of the cost of
4 newly constructed residential buildings shall be based upon construction cost data
5 reported by Marshall and Swift, Valuation Engineers, as adopted for San Francisco.
6 The schedule in effect on the date the notice to quit is served shall apply. Where the
7 landlord is seeking to recover possession of several units in the same building under
8 Section 37.9(a)(12) of the Rent Ordinance for one proposed substantial
9 rehabilitation project, the schedule posted and in effect on the date of service of the
10 first notice of termination shall apply. A landlord who recovers possession of a
11 rental unit under Section 37.9(a)(12) must file a petition with the Rent Board for
12 exemption based on substantial rehabilitation within one year of recovery of
13 possession of the rental unit. A landlord who fails to file a petition within one year
14 and thereafter obtain a determination of exempt status from the Board shall have
15 wrongfully recovered possession of the tenant's rental unit in violation of Section
16 37.9(f) and shall be liable to the displaced tenant for actual and punitive damages as
17 provided by Section 37.9(f).

18

19

20

21

22

23

24

25

26

27

28

City and County of San Francisco



**Residential Rent Stabilization
and Arbitration Board**

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Rent Board Memorandum

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Date: January 21, 2003

To: Interested Parties

From: Joe Grubb, Executive Director

Re: Notice of Public Hearing, REISSUANCE

Please replace a prior copy of this with the attached version. There
were some typographical errors in the earlier document.

encl.

DOCUMENTS DEPT.

JAN 22 2003

SAN FRANCISCO
PUBLIC LIBRARY



City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

WILLIE L. BROWN, JR.

MAYOR

January 14, 2003

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

JOSEPH GRUBB
EXECUTIVE DIRECTOR

NOTICE OF PUBLIC HEARING

DATE:	February 4, 2003
TIME:	6:30 P.M.
PLACE:	25 VAN NESS AVENUE (AT MARKET ST.) SUITE 70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE LANGUAGE BELOW AMENDING SECTION 1.18. This section as currently written permits evictions for substantial rehabilitation to occur before any hearing is held or certification of true costs is made. Thus, tenants can be evicted, although the subsequent petition for exemption may be denied due to the failure of the owner to meet the expenditure requirements.

This revision is intended to provide better guidance to landlords and tenants by creating a rebuttable presumption that the costs on the approved construction permit(s) are the estimated cost of the proposed work. It also requires that a landlord who recovers a unit or units under 37.9(a)(12) must file a petition for exemption within one year of recovery or be deemed to have wrongfully recovered possession in violation of 37.9(f).

The proposed language reads as follows on the next page (deletions indicated with strikeouts; new language underlined):

DOCUMENTS DEPT.

JAN 22 2003

SAN FRANCISCO
PUBLIC LIBRARY



Section 1.18 Substantial Rehabilitation

(Amended August 29, 1989; September 5, 1989; September 26, 1989; June 18, 1991; renumbered effective February 1, 1995)

"Substantial rehabilitation" means the renovation, alteration or remodeling of a building containing essentially uninhabitable residential rental units of 50 or more years of age which require substantial renovation in order to conform to contemporary standards for decent, safe and sanitary housing in place of essentially uninhabitable buildings. Substantial rehabilitation may vary in degree from gutting and extensive reconstruction to extensive improvements that cure substantial deferred maintenance. Cosmetic improvements alone such as painting, decorating and minor repairs, or other work which can be performed safely without having the units vacated, do not qualify as substantial rehabilitation.

Improvements will not be deemed substantial unless the cost of the work for which the landlord has not been compensated by insurance proceeds equals or exceeds seventy-five percent (75%) of the cost of newly constructed residential buildings of the same number of units and type of construction, excluding land costs and architectural/engineering fees. The determination of ~~this estimated cost~~ ~~the cost of newly constructed residential buildings~~ shall be based upon construction cost data reported by Marshall and Swift, Valuation Engineers, as adapted for San Francisco and posted in January and June of each year in the ~~Bureau~~ Department of Building Inspection for purposes of determining permit fees. The schedule ~~posted nearest in time to in effect on~~ the date of the Notice of Completion of the improvements shall apply. Where the landlord is seeking to recover possession of a rental unit under Section 37.9(a)(12) of the Rent Ordinance, improvements will not be deemed substantial unless the estimated cost of the proposed work for which the landlord will not be compensated by insurance proceeds equals exceeds seventy-five percent (75%) of the cost of newly constructed residential buildings of the same number of units and type of construction, excluding land costs and architectural/engineering fees. For purposes of such evictions under 37.9(a)(12) of the Rent Ordinance, there shall be a rebuttable presumption that the cost

OVER, PLEASE

stated for the work in the applicable approved construction permits is the estimated cost of the proposed work. For purposes of determining whether improvements are substantial under Section 37.9(a)(12), the determination of the cost of newly constructed residential buildings shall be based upon construction cost data reported by Marshall and Swift, Valuation Engineers, as adopted for San Francisco. The schedule in effect on the date the notice to quit is served shall apply. Where the landlord is seeking to recover possession of several units in the same building under Section 37.9(a)(12) of the Rent Ordinance for one proposed substantial rehabilitation project, the schedule posted and in effect on the date of service of the first notice of termination shall apply. A landlord who recovers possession of a rental unit under Section 37.9(a)(12) must file a petition with the Rent Board for exemption based on substantial rehabilitation within one year of recovery of possession of the rental unit. A landlord who fails to file a petition within one year and thereafter obtain a determination of exempt status from the Board shall have wrongfully recovered possession of the tenant's rental unit in violation of Section 37.9(f) and shall be liable to the displaced tenant for actual and punitive damages as provided by Section 37.9(f).

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, February 4, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

I. Call to Order

FEB 14 2003

Vice-President Marshall called the meeting to order at 6:14 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Becker; Gruber; Marshall; Mosser.

Commissioners not Present: Justman; Lightner.

Staff Present: Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:19 p.m.; President Wasserman arrived at the meeting at 6:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 7, 2003 with the following addition: the Motion regarding the appeal hearing concerning 1670 Clay St. (AT020245) was made by Commissioner Marshall, seconded by Commissioner Murphy, and approved by a 4-1 vote with Commissioner Gruber dissenting.
(Gruber/Marshall: 3-0)

MSC: To approve the Minutes of January 21, 2003.
(Becker/Gruber: 3-0)

IV. Remarks from the Public

A. Robert Pender, Vice President of the Parkmerced Residents' Organization (PRO), told the Board that Parkmerced residents have now been instructed by management to go to four new satellite offices. Mr. Pender has received 63 complaints from tenants regarding the new offices, and he will be bringing this to the attention of the Board of Supervisors. Parkmerced removed 4 units from the rental market to create the new offices.

V. Consideration of Appeals

A. 707 Gonzalez Dr.

AT020524

(cont. from 1/7/03)

The landlord's petition for rent increases for 2,702 of 3,456 units based on increased operating expenses was granted, resulting in 7% base rent increases for the majority of the tenants. The tenant at 707 Gonzalez Drive appeals the decision on



the grounds of financial hardship. This appeal was continued from the meeting on January 7th, 2003, in order for another voting Tenant Commissioner to be in attendance.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Becker: 3-2; Gruber, Murphy dissenting)

B. 2911 – 16th St. #311 AT020629

The landlord's petition for certification of capital improvement costs to the tenants in 35 of 63 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Gruber: 3-0)

C. 1121 Masonic #9 AT020565

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received the Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Murphy: 4-0)

D. 1830 – 19th Ave. AL020563

The tenant's petition alleging unlawful rent increases was granted and the landlords were found liable to the tenant in the amount of \$9,040.00. The Administrative Law Judge found that the premises, a single family dwelling, was significantly expanded in 1996, but not demolished. Since the first Certificate of Occupancy for the structure was issued in 1925, the building was determined to be under the jurisdiction of the Rent Ordinance. On appeal, the landlord asserts that the Administrative Law Judge erred because: the work meets the definition of "demolition" under the Planning Code; the evidence shows that there was no existing structure during construction; the single family dwelling that originally existed was demolished and replaced by a two-unit structure; a demolition permit was not required; and the May, 1999 rent increase included the provision of storage space as an additional housing service.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to vacate the decision and find that the building is exempt from the jurisdiction of the Rent Ordinance. (Murphy/Gruber: 3-2; Becker, Marshall dissenting)

E. 207 Gough St. #41 AT020564

The tenant's petition alleging improper calculation of a PG&E passthrough was granted, and overcharges in the amount of \$.26 per month were ordered refunded. On appeal, the tenant claims that the amount charged for May 2000 is in error, because it is a negative value. The tenant maintains that a refund for prior years does not accurately reflect the actual cost of energy for that time period.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to allocate the PG&E costs to the time periods when the costs were actually incurred; a hearing will be held only if necessary. (Murphy/Becker: 4-0)

F. 1935 Franklin #503

AT020566

The landlord's petition for a rent increase based on comparable rents was granted, and a rent increase from \$930.00 to \$1,650.00 was approved. The landlord was also found liable to the tenants in the amount of \$59.52 due to a one-month overpayment in rent. The Administrative Law Judge found that the prior resident manager of the building had approved the tenants' exchanging units in the building at the same rent, but lacked the authority to do so, which constituted fraud or "some other reason" for the tenants' rent having been set low. The tenants' appeal of the portion of the decision allowing the comparables rent increase was accepted at the October 30, 2001 Board meeting and remanded with the sense of the Board that no comparables rent increase was warranted in this case. The landlord's appeal was also remanded on the issue of allowable banking only. In the Decision on Remand, the comparables increase was denied, but banking was allowed back to 1995, which was the commencement date of the assigned tenancy. The landlord's appeal of the remand decision was accepted and the case was remanded on the issue of the rent history; to grant the rent increase based on comparables approved in the first Decision prospectively only; and to waive any retroactive amounts that would be owed by the tenants due to the comparables rent increase having been approved. The tenants appeal the second remand decision, asking that the Board dismiss the case since they have vacated the building; and asserting that the facts in this case do not warrant a rent increase based on comparables, because the conduct of the former manager is legally binding on the landlord.

MSC: To recuse Commissioner Becker from consideration of this appeal.
(Becker/Gruber: 5-0)

MSC: To deny the appeal. (Murphy/Gruber: 3-1; Marshall dissenting)

G. 1935 Franklin

AL020489

(cont. from 12/17/02)

The landlord's petition for rent increases based on increased operating expenses was granted, resulting in 7% base rent increases to the tenants in 33 units. The landlord appeals the decision, arguing that: the operating expense increase should be calculated on the base rent in effect at the time the rent increase is imposed, and not the base rent in effect at the time the petition was filed; annual increases should be included in the base rent when the allowable operating expense increase is calculated, or there is a disparate result between tenants who have already received their annual increase and those who have not; and the rent increase to the tenants in unit #503 should be based on the adjusted base rent that will be authorized in a pending comparables case that is on remand.

MSC: To deny the appeal except to remand the case to the Administrative Law Judge to make any necessary corrections to the rent amounts for unit #503 stated in the decisions in related cases. (Marshall/Wasserman: 4-0)

H. 936 Scott St., Apt. 4

AT020567

The landlords' petition for certification of capital improvement costs to five of six units was granted. One tenant appeals the decision, claiming that: mold and mildew in her unit should have been considered by the Administrative Law Judge; and the landlords had long-term notice of the problem of insufficient heat, and should not be allowed to pass through the costs of the new heating system

MSC: To deny the appeal without prejudice to the tenant filing a petition alleging a substantial decrease in housing services, if warranted.
(Murphy/Becker: 5-0)

I. 218 Union St. #3

AT020530

The landlord filed a petition seeking a determination as to whether the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21. The tenant's family resides in Sacramento, but the tenant works in San Jose and stays some of the time with friends in the Los Altos Hills. The Administrative Law Judge found that the tenant's San Francisco unit constituted his principal place of residence and the landlord's petition was denied. On appeal from the landlord, the Board reversed the decision, and found that under the facts of this case, the tenant is not a "Tenant in Occupancy" at the San Francisco unit. The tenant appeals the remand decision, arguing that: in the original decision, the Administrative Law Judge correctly decided that he was a "Tenant in Occupancy" at the San Francisco unit; the tenant failed to respond to the landlord's appeal because he did not think it necessary, the Notice of Appeal Consideration stated that there would be another hearing if the landlord's appeal was accepted; and the landlord obtained reimbursement for the retroactive rent increase by deducting from the tenant's security deposit.

MSC: To accept the appeal and remand the case to the Administrative Law Judge only to find that the rent increase was effective as of the date the Board decided the landlord's appeal, or October 1, 2002.
(Gruber/Becker: 5-0)

J. 654 So. Van Ness

AT020568

The tenant filed two petitions alleging that the landlord failed to perform requested repairs required by law. The Administrative Law Judge denied both petitions because the landlord had abated the defective conditions prior to the effective date of the rent increase. The tenant appeals, maintaining that the dining room and kitchen have not been painted for ten years, and that the paint is peeling in both rooms.

After discussion, it was the consensus of the Board to continue consideration of this appeal to the next meeting in order to obtain additional information from the Administrative Law Judge.

K. 1040 Dolores St. #107 & 206

AT020569 & -70

The landlords' petition for certification of capital improvement costs for nine of twenty-one units was granted, in part. Two tenants appeal the decision. The tenant in unit #107 asserts that: the rebuilding of the balconies was the result of the landlord's deferred maintenance, and not faulty deck design, as evidenced by the fact that not all of the building's decks were replaced; the building was in a state of de facto code violation; the correction of compromised conditions does not constitute an improvement for the tenant; the replacement of the retaining wall, waste and

overflow unit work, roof repair, smoke detector panel and garbage chute sprinklers constituted ordinary maintenance, and not capital improvement; the costs of the retaining wall and waste and overflow unit work should only be assessed to patrons of the building's parking facilities; and costs for painting vacant units should be separated out from the ceiling painting costs. The tenant in unit #206 maintains that: the interest rate for the loan taken out to do the work was inordinately high, the funds may have been commingled with funds used to finance work on the landlords' private residence, and it appears that the loan will have been paid off within five years, so the imputed interest rate should apply after that time; the services of an independent estimator should have been utilized; the replacement of the balconies was necessitated by the landlords' deferred maintenance; the tenant derives no benefit from the new retaining wall; and the installation of lights on the decks constitutes a luxury upgrade.

MSC: To accept the appeal of the tenant in unit #206 and remand the case to the Administrative Law Judge to: issue a Technical Correction to the decision deleting the language pertaining to Minute Orders; grant the landlord actual interest at the rate of 10% for the first five years of the loan, and the imputed interest rate in effect at the time of filing of the petition for the second five years of the loan – the landlord can re-open the case at that time to prove an actual interest rate, if higher; and to hold a hearing to determine how to allocate costs of the retaining wall, taking into account non-tenant users. (Becker/Marshall: 3-2; Gruber, Murphy dissenting)

MSC: To accept the appeal of the tenant in unit #107 and remand the case to the Administrative Law Judge to issue a Technical Correction to the decision deleting the language pertaining to Minute Orders; and to hold a hearing to determine how to allocate costs of the retaining wall, taking into account non-tenant users. (Becker/Marshall: 3-2; Gruber, Murphy dissenting)

VI. Public Hearing

Proposed Amendments to Rules and Regulations Section 1.18

The Board commenced a Public Hearing on proposed amendments to Rules and Regulations Section 1.18 at 7:59 p.m., which concluded at 8:10 p.m. Former Commissioner Aung authored the proposed amendment, because the Section as currently written permits evictions for substantial rehabilitation to occur before any hearing is held or the actual costs of the work are certified. Tenants can therefore be evicted and not realize they have the right to reoccupy the unit, although the subsequent petition for exemption may be denied due to the failure of the owner to meet the expenditure requirements. The proposed amendment provides guidance to landlords and tenants by creating a rebuttable presumption that the costs on the approved construction permits are the estimated cost of the proposed work. The proposal also requires that a landlord who recovers a unit or units pursuant to Section 37.9(a)(12) must file a petition for exemption within a certain period of time after recovery of the unit or be deemed to have wrongfully recovered possession in violation of Section 37.9(f).

Two members of the public testified as follows:

A. Attorney Gen Fujioka of the Asian Law Caucus told the Board about a case he litigated where the whole trial was about how much work was enough to meet the standard for substantial rehabilitation, since the Judge said that Rules Section 1.18 only applied upon the completion of the work. Mr. Fujioka told the Board that a standard is necessary so that everyone knows whether the work constitutes capital improvement with the right to return, or substantial rehabilitation, with the tenant having no right to reoccupy. Mr. Fujioka also urged the Board to use the amount in the permit application, since the landlord designates that amount and pays the permit fee based on that amount.

B. Robert Pender of PRO said that he supported the proposed amendment because it added protections for landlords and tenants, which leads to better relationships.

After discussion resulting in a few amendments to the proposed language, the Board voted as follows:

MSC: To pass the proposed amendments to Rules and Regulations Section 1.18, with minor changes. (Becker/Marshall: 5-0)

The amended regulation reads as follows below:

Section 1.18 Substantial Rehabilitation
(Amended August 29, 1989; September 5, 1989; September 26, 1989; June 18, 1991; renumbered effective February 1, 1995; amended February 4, 2003.)

"Substantial rehabilitation" means the renovation, alteration or remodeling of a building containing essentially uninhabitable residential rental units of 50 or more years of age which require substantial renovation in order to conform to contemporary standards for decent, safe and sanitary housing in place of essentially uninhabitable buildings. Substantial rehabilitation may vary in degree from gutting and extensive reconstruction to extensive improvements that cure substantial deferred maintenance. Cosmetic improvements alone such as painting, decorating and minor repairs, or other work which can be performed safely without having the units vacated, do not qualify as substantial rehabilitation.

Improvements will not be deemed substantial unless the cost of the work for which the landlord has not been compensated by insurance proceeds equals or exceeds seventy-five percent (75%) of the cost of newly constructed residential buildings of the same number of units and type of construction, excluding land costs and architectural/engineering fees. The determination of the cost of newly constructed residential buildings shall be based upon construction cost data reported by Marshall and Swift, Valuation Engineers, as adapted for San Francisco and posted in January and June of each year in the Department of Building Inspection for purposes of determining permit fees. The schedule in effect on the date of the Notice of Completion of the improvements shall apply. Where the landlord is seeking to recover possession of a rental unit under Section 37.9 (a)(12) of the Rent Ordinance, improvements will not be deemed substantial unless the estimated cost of the proposed work for which the landlord will not be compensated by insurance proceeds equals or exceeds seventy-five percent (75%) of the cost of newly constructed residential buildings of the same number of units

and type of construction, excluding land costs and architectural/engineering fees, based upon construction cost data reported by Marshall and Swift. For purposes of such evictions under 37.9(a)(12) of the Rent Ordinance, there shall be a rebuttable presumption that the cost stated for the work in the applicable approved construction permits is the estimated cost of the proposed work. For purposes of determining whether improvements are substantial under Section 37.9(a)(12), the determination of the cost of newly constructed residential buildings shall be based upon construction cost data reported by Marshall and Swift, Valuation Engineers, as adopted for San Francisco. The schedule in effect on the date the notice to quit is served shall apply. Where the landlord is seeking to recover possession of several units in the same building under Section 37.9(a)(12) of the Rent Ordinance for one proposed substantial rehabilitation project, the schedule posted and in effect on the date of service of the first notice of termination shall apply. A landlord who recovers possession of a rental unit under Section 37.9(a)(12) must file a petition with the Rent Board for exemption based on substantial rehabilitation within the earlier of: (i) two years following recovery of possession of the rental unit; or (ii) one year following completion of the work. A landlord who fails to file a petition within such time and thereafter obtain a determination of exempt status from the Board shall be rebuttably presumed to have wrongfully recovered possession of the tenant's rental unit in violation of Section 37.9(f).

VII. Communications

In addition to correspondence concerning cases on the calendar, and comments submitted for the Public Hearing, the Commissioners received the following communications:

- A. A log of all petitions for substantial rehabilitation exemption from the Ordinance filed at the Board.
- B. Proposed Rules and Regulations to implement the Ammiano legislation, which will take effect on February 21, 2003, along with explanatory Memoranda from staff.

VIII. Director's Report

Executive Director Grubb went over the proposed departmental budget for the next fiscal year. Mr. Grubb informed the Board that the budget would stay about the same as last year's, since salary increases are not anticipated. The Department will be operating with a surplus due to several one-time costs in last year's budget, and reductions in the City's overhead charges.

IX. Old Business

"Floating" Alternates

The Commissioners continued discussion of a proposal by Commissioner Marshall that would allow Alternate Board members to be "Floater," which would enable them to vote in the stead of either of the voting Commissioners should one be absent. Deputy Director Wolf conveyed Staff's opinion that this would require an Ordinance change, and could not be accomplished by amending the Rules and Regulations. Commissioner Murphy expressed some concerns regarding Brown

Act and Sunshine Ordinance issues. Executive Director Grubb reported that he has asked Deputy City Attorney Marie Blits to examine these issues. If there are not insurmountable difficulties, Ms. Blits will be asked to draft an amendment to the Ordinance and Mr. Grubb will seek a sponsor for the legislation on the Board of Supervisors.

IV. Remarks from the Public (cont.)

B. Robert Pender of PRO told the Board that he would be going before the Board of Supervisors to express his opinion that every Commissioner should have an Alternate.

X. New Business

The Board members were given a set of proposed regulations to implement the Ammiano legislation, which will take effect on February 21, 2003, drafted by Senior Administrative Law Judge Tim Lee. The proposed regulations track the Ammiano amendments to the Rent Ordinance except for the provisions regarding interest on capital improvement work.

MSC: To put the proposed amendments to the Rules and Regulations to implement the Ammiano legislation out for Public Hearing on March 4, 2003. (Gruber/Marshall: 5-0)

XI. Calendar Items

February 11, 2003 - NO MEETING

February 18, 2003
11 appeal considerations

XII. Adjournment

President Wasserman adjourned the meeting at 8:52 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

February 18, 2003

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

- | | | |
|---|------------------------------|---------------------------------|
| KHIN MAI AUNG | I. Call to Order | FEB 14 2003 |
| LARRY BEACH BECKER | II. Roll Call | SAN FRANCISCO
PUBLIC LIBRARY |
| DAVID GUSTAV GRUBER | III. Approval of the Minutes | |
| FREDERICK HOBSON | IV. Remarks from the Public | |
| ANTHONY JUSTMAN | | |
| MERRIE T. LIGHTNER | | |
| NEVEO MOSSER | | |
| BARTHOLOMEW MURPHY | | |
| NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations,
members of the public shall be limited to comments of no more
than 3 minutes' duration. | | |
| V. Consideration of Appeals | | |
| A. 654 So. Van Ness | AT020568 | (cont. from 2/4/03) |

The tenant appeals the decision denying a claim of failure to repair.

B. 254 Broad St. AL030001

The landlord appeals the decision granting claims of unlawful rent increase and decreased housing services.

C. 1031-1039 Scott St. AL020631

The landlord appeals the decision partially granting certification of capital improvement costs.

D. 1844 Mason St. AL020634

The landlord appeals the decision granting a claim of decreased housing services.

E. 333 Fillmore St., Apt. 6 AT020632

The tenant appeals the portion of a decision denying a claim of decreased housing services based on the loss of parking.

F. 755-757 Green St. AT020571 & -72



The tenants in two units appeal the decision finding that the Rent Board has jurisdiction over the subject property.

G. 307 – 30th Ave. AT020635

The tenants appeal the decision denying a claim of decreased housing services.

H. 811 – 32nd Ave., Upper Level AT020633

The tenant appeals the decision denying a claim of decreased housing services.

I. 1285 Palou Ave. AL020636

The landlord appeals the decision granting a claim of unlawful rent increase.

J. 1435 Washington St. #12 AT020637

One tenant appeals the decision certifying capital improvement costs.

K. 213A Bocana St. AL020554
(rescheduled from 1/21/03)

The landlord appeals the decision granting claims of unlawful rent increase and decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71-Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

1920-1921

1921

1921-1922

City and County of San Francisco



2
8/03
SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization and Arbitration Board

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, February 18, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

I. Call to Order

MAR - 3 2003

KHIN MAI AUNG

LARRY BEACH BECKER

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:05 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Becker; Lightner; Marshall; Mosser.
Commissioners not Present: Gruber; Murphy; Wasserman.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 4, 2003.
(Becker/Mosser: 4-0)

IV. Remarks from the Public

A. Ron Rattner, representing the tenant at 333 Fillmore (AT020632), asked that the Board reconsider their procedures, which do not require that a respondent file a response prior to the hearing. Mr. Rattner feels that it is unfair to the petitioner not to know what the other side is going to contend, as you do in court.

V. Consideration of Appeals

A. 654 So. Van Ness

AT020568
(cont. from 2/4/03)

The tenant filed two petitions alleging that the landlord failed to perform requested repairs required by law. The Administrative Law Judge denied both petitions because the landlord had abated the defective conditions prior to the effective date of the rent increase. The tenant appeals, maintaining that the dining room and kitchen have not been painted for ten years, and that the paint is peeling in both rooms.

After discussion, it was the consensus of the Board to continue consideration of this appeal to the next meeting in order to obtain additional information from the Administrative Law Judge.

MSC: To deny the appeal. (Lightner/Mosser: 5-0)

B. 254 Broad St.

AL030001



The tenant's petition alleging decreased housing services and unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$1,835.00 for rent overcharges and \$2,706.00 due to decreased housing services. The landlord failed to attend the hearing. On appeal, the landlord maintains that neither he nor his agent received the Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Becker/Mosser: 5-0)

C. 1031-1039 Scott St.

AL020631

The landlord's petition for certification of capital improvement costs to four of six units was granted, in part. The landlord appeals the decision on the grounds that: the new roof over an addition at the rear of the building only benefits the units underneath that roof; and time spent acquiring and transporting materials to the site of the work should be allowed as uncompensated labor costs.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to allow the landlord to amend the petition to include additional units for purposes of allocating the cost of the new roof at the rear of the building; and to allow uncompensated labor costs that represent reasonable time spent in pursuit of the job.
Unreasonable costs or costs that are not considered to be credible should be disallowed. (Lightner/Mosser: 4-1; Marshall dissenting)

D. 1844 Mason St.

AL020634

The tenants' petition alleging a reduction in housing services due to the loss of use of a roof deck was granted and the landlord was found liable to the tenants in the amount of \$40 per month (\$480). The landlord appeals, claiming that: the tenant's testimony in this case is at variance with testimony he offered in another case; the letters submitted by the tenant as evidence are suspect; the rent reduction should commence as of April, 2002, when it was established that the deck was constructed without permits; and \$40 per month is excessive, considering that the tenants did not have exclusive use of the deck.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Lightner, Mosser dissenting)

E. 333 Fillmore St., Apt. 6

AT020632

The tenant filed a petition alleging decreased housing services, unlawful rent increases, and asking for a determination as to the legality of the base rent. The claim of unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$726.00. The portion of the tenant's petition alleging decreased housing services was denied, since the Administrative Law Judge found that the tenant failed to prove that parking was a housing service provided by the landlord at the inception of the tenancy and that it was included in the base rent. The tenant appeals, claiming that: since he parked in the garage from the inception of the tenancy, parking was furnished with the unit and his base rent included consideration for this service; and the Administrative Law Judge erred in disregarding testimony from the tenant and witnesses and in accepting implausible, false testimony from the

landlord's representative. The tenant also requests an opportunity to produce further evidence supporting his petition and contradicting the landlord's defense.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to examine the evidence produced on appeal. If the new evidence would not have made any difference in the decision, then the decision shall stand. If the new evidence could have affected the outcome, then there shall be a new hearing.
(Lightner/Mosser: 5-0)

F. 755-757 Green St.

AT020571 & -72

The landlord filed a petition seeking rent increases for two units based on comparable rents. The occupants of the units are related to the landlord, and have never paid rent. Prior to adjudicating the merits of the proposed comparables increases, the Administrative Law Judge issued a decision finding that the Rent Board has jurisdiction over the subject units. The tenants appeal the finding of jurisdiction, arguing that this is a family relationship; the parties are not landlord and tenants; and that the landlord promised that the tenants could live in the units rent-free forever. The tenant in unit #3E also appeals on the grounds that the proposed comparables increase is too high.

MSC: To deny the appeal, except that the portion of the appeal of the tenant at unit 757 Green Street contending that the comparables rent increase is too high shall be held in abeyance pending issuance of the remand decision determining the landlord's comparables petition. (Becker/Marshall: 5-0)

G. 307 – 30th Ave.

AT020635

The tenants' petition alleging decreased housing services was denied because the Administrative Law Judge found that the conditions were not substantial or that the landlords remedied the defects within a reasonable period of time. On appeal, the tenants assert: that the Notice of Violation issued to the landlords states that the building is unsafe; that laundry trays in the garage were removed, for which the tenants deserve compensation; and that there are special circumstances in this case which warrant a rent reduction, including the hardship that the restoration of the prior base rent amount would pose for the tenants.

MSC: To deny the appeal. (Lightner/Mosser: 5-0)

H. 811 – 32nd Ave., Upper Level

AT020633

The tenant's appeal was filed six days late because the tenant works six days a week and had a difficult time preparing the appeal.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The tenant's petition alleging decreased housing services due to alleged harassment on the part of the landlord was denied. The tenant appeals, claiming that: the decision is based on lies on the part of the landlord; the tenant's unit is separate from the landlord's, and the landlord has no right to enter the tenant's unit without permission; the Administrative Law Judge ignored evidence provided by the

tenant; the landlord breached the covenant of quiet enjoyment of the unit; and the landlord failed to provide a key to the rear door of the tenant's unit.

MSC: To deny the appeal. (Lightner/Mosser: 5-0)

I. 1285 Palou Ave.

AL020636

The tenants' petition alleging unlawful rent increases was granted and the landlord was found liable to the tenants in the amount of \$2,339.84. The landlord is the niece of the tenants, and the original agreement provided that the tenants would pay half the mortgage, plus taxes and insurance, which went up considerably upon the sale of the property. Upon appeal, the landlord claims that the decision is in error as to the rent history.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the issue of the tenants' rent history, including any necessary technical corrections. A hearing will be held only if necessary. (Becker/Lightner: 5-0)

J. 1435 Washington St. #12

AT020637

The landlords' petition for certification of capital improvement costs to 6 of 12 units was granted. One tenant appeals the decision, claiming that the new radiator control in her unit was not installed properly, which causes it to leak.

MSC: To deny the appeal without prejudice to the tenant filing a petition for rent reduction based on decreased housing services, if warranted. (Justman/Mosser: 4-1; Marshall dissenting)

K. 213 A Bocana St.

AL020554

(rescheduled from 1/21/03)

The tenants' petition alleging unlawful rent increases and decreased housing services was granted, in part, and the landlord was found liable to the tenants for rent overpayments in the amount of \$59.12, and \$4,598.75 due to lack of a permanent heating source. On appeal, the landlord claims that: the tenants failed to meet their burden of proving there was inadequate heat in the unit; the landlord was not made aware that there were code violations on the premises upon purchasing the building; the tenants did not provide access to the unit in order for repairs to be effectuated; and documentation provided to the Rent Board by the tenants was not provided to the landlord prior to the hearing.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a copy of the Board's Decision on Appeal in the case concerning 1670 Clay Street (AT020245), heard and decided on January 7, 2003. Approval of the decision was continued to the next meeting.

VII. Director's Report

Executive Director Grubb informed the Commissioners that new Tenant Alternate Commissioner Cathy Mosbrucker would be sworn in on February 28th at 4:30 in the Mayor's Office. Ms. Mosbrucker will be Commissioner Becker's Alternate.

IV. Remarks from the Public (cont.)

B. Tenant Lillian Leung, involved in the case at 811 – 32nd Ave. (AT020633), inquired as to the disposition of her appeal, and asked why it was denied.

VIII. Calendar Items

February 25, 2003 - NO MEETING

March 4, 2003

10 appeal considerations

6:30 Public Hearing: Proposed Amendments to Rules Sections 7.10, 7.11, 7.12 and 7.14 to Implement the "Ammiano" Legislation

IX. Adjournment

President Wasserman adjourned the meeting at 7:40 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
March 4, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

- I. Call to Order

MAR - 3 2003

KHIN MAI AUNG
LARRY BEACH BECKER

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

G. 2101 Sacramento #604

AL020630

The landlord appeals the decision granting claims of decreased housing services and failure to repair.

H. 515 John Muir Dr.

AT020574-81; 0583-0600; 0603-0610 & 0612

The tenants in thirty units appeal the decision granting certification of capital improvement costs.

I. 623 – 15th Ave.

AT030005

The tenant appeals the determination that the landlord's notice restoring the prior base rent amount was sufficient.

VI. Public Hearing

6:30 Proposed Amendments to Rules Sections 7.10, 7.11, 7.12 and 7.14 to Implement the "Ammiano" Legislation

VII. Communications

VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

“Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City’s efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.”

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency’s compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government’s duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people’s business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people’s review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, March 4, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT

MAR 12 2003

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:15 p.m.

Commissioners Present: Becker; Gruber; Lightner; Marshall; Murphy;
Wasserman.
Commissioners not Present: Mosser.
Staff Present: Gartzman; Grubb; Wolf.

Commissioner Justman appeared on the record at 6:18 p.m.; Commissioner
Marshall went off the record at 8:55 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 18, 2003.
(Becker/Marshall: 5-0)

IV. Remarks from the Public

Robert Pender told the Board that this is the 29th birthday of the Parkmerced
Residents' Organization (PRO), and gave them a brief history of PRO's activities.

V. Consideration of Appeals

A. 1550 Bay #331

AT030008

The tenant's appeal was filed over one year late because the tenant was involved in
an accident at the time the decision was issued, from which she has not recovered as
she expected to.

MSC: To recuse Commissioner Murphy from consideration of this
appeal. (Lightner/Becker: 5-0)

MSC: To find good cause for the late filing of the appeal.
(Becker/Lightner: 4-1; Gruber dissenting)

The landlord's petition for certification of a large capital improvement project was
granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

B. 133 Buchanan St. #3

AT030002

The landlord's petition for certification of capital improvement costs was granted, resulting in a monthly passthrough in the amount of \$38.39. The tenants appeal, claiming that: the improvements were done to attract new tenants, rather than benefit existing tenants; the hallway painting and wallpapering are merely cosmetic improvements; the new intercom system is more sophisticated and expensive than necessary; and estimators' reports or competitive bids were not shown to the tenants.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

C. 1660 Bay St.

AT020614 thru -28

The landlords' petition for certification of capital improvement costs to the tenants in twenty-four units was granted. The tenants in fifteen units appeal certification of the costs of a new utility room in the amount of \$6,815.00. The tenants claim that the utility room was formerly the tenants' storage room, and that the tenants no longer have access to the area to confirm that it is indeed a utility room that benefits the tenants. The tenants believe that the "utility room" is used by the landlord as his office.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to determine whether the former storage room is now a utility room that benefits the tenants in the building; a hearing will be held only if necessary. (Marshall/Becker: 4-1; Lightner dissenting)

D. 424 Jones St. #201

AL020003

The tenant's petition alleging an unlawful increase in rent was granted. The Administrative Law Judge found that the tenant, although a minor at the inception of the tenancy, had continuously resided in the unit and therefore was an "original occupant" pursuant to Costa-Hawkins and Rules and Regulations Section 6.14. On appeal, the landlord asserts that: a minor cannot be an original occupant within the meaning of Costa-Hawkins and/or Rules Section 6.14 because minors lack the capacity to enter into contracts or take possession of a rental unit; and that the Decision of the Administrative Law Judge would require landlords to serve every newborn baby with a 6.14 notice, which would be burdensome and contrary to public policy.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

E. 2030 Vallejo St.

AL030007

Ten tenant petitions alleging decreased housing services were granted, and the landlord was found liable to the tenants in the amount of \$200 per month due to the elimination of doorman services and \$75.00 per month due to a lack of general maintenance and repairs in the building. Two individual decreased housing claims regarding defective ovens were also granted. On appeal, the landlord claims that:

the Administrative Law Judge is biased against him because he has filed a Writ against a decision she rendered in a previous case; the rent reductions granted should reflect the amount of rent paid by each tenant; no value was ascribed to the benefits provided by the current employee who has replaced the doormen; and the tenants failed to meet the burden of proving the value of the allegedly decreased services.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

F. 1369 Sacramento St., No. 6

AL030004

The landlord's petition seeking a determination that the tenant is not a "Tenant in Occupancy" pursuant to Rules Section 1.21 and/or seeking a rent increase based on Rules Section 6.14 or Costa-Hawkins was denied because the Administrative Law Judge found that the tenant occupies the unit as his principal place of residence. On appeal, the landlord asserts that: the tenant is not an original occupant of the unit because he was a minor child at the inception of the tenancy, his parents, the original occupants, vacated the unit, at which time the tenant was served with a 6.14 notice; the tenant's alleged continued possession of the unit may be "illusory"; minors cannot be considered tenants nor served with 6.14 notices because they cannot enter into contracts; and the language of Costa-Hawkins refers to occupants "pursuant to the rental agreement", when the tenant in this case is not mentioned in the rental agreement.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions that, under these facts, a rent increase pursuant to Costa-Hawkins is warranted. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

G. 2101 Sacramento #604

AL020630

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$1,322.50 due to a defective bathtub and leaking walls. Due to code violations on the premises, an annual rent increase was also ordered deferred for eighteen days. On appeal, the landlord claims that: the Notice of Violation from the Department of Building Inspection (DBI) was sent to an incorrect address, and the landlord received no other notice of the problems in the unit; the picture entered into evidence by the tenant was taken quite some time ago, and remedial work has been effectuated since that time; the problem with the bathtub was de minimus; the repairs were done to the satisfaction of the DBI in a timely fashion; and the fact that the new paint is a slightly different color does not constitute a code violation.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the issue of the date the Notice of Violation was received by the landlord; to deny the appeal as to all other issues. (Marshall/Becker: 3-2; Gruber, Lightner dissenting)

H. 515 John Muir Dr.

AT020574 thru -0581; 0583-0600; 0603-0610; & 0612

The landlord's petition for certification of the costs of exterior painting and clubhouse remodel to 375 units was granted, in part, resulting in a monthly passthrough in the

amount of \$5.74. Thirty tenants appeal the decision, asserting that: the tenants were prejudiced by not having been given an additional extension of time for filing their appeal; the taped recordings of the hearings are largely unintelligible; the landlord's representative is engaging in the unauthorized practice of law; the Administrative Law Judge exhibited bias against the tenants and failed to consider all of their objections; items withdrawn from the petition by the landlord should have been discussed as indications of the landlord's bad faith; painting constitutes repair rather than capital improvement; amortization of capital improvement costs should commence immediately upon completion of the work; the capital improvement passthrough should be precluded because of housing code violations on the premises; the Administrative Law Judge ignored tenant allegations of perjury on the part of the landlord's agent; the burden of proof was improperly placed on the tenants; one of the tenants requested a postponement of the hearing, which was improperly denied; the tenants were prejudiced by not being served with post-hearing submissions by the landlord; there are factual errors in the decision; the petition was deficient and should have been administratively dismissed; the costs were not allocated to the individual buildings, as required; required permits were not submitted; the landlord intentionally falsified the petition; the contract for the painting work was never provided; the services of an independent estimator should have been utilized; the cost of the clubhouse renovation was excessive; the Rent Board improperly defines "capital improvements" differently from the commonly accepted IRS definitions; fitness equipment cannot be considered a capital improvement; the re-tiling of the spa constituted ordinary repair and maintenance; certain spa improvements constituted "gold-plating"; the costs were not allocated reasonably; and the landlord should only be allowed to impose the passthroughs on the tenants' anniversary dates.

MSC: To deny the appeals. (Lightner/Gruber: 5-0)

I. 623 – 15th Ave.

AT030005

The tenant's petitions alleging an unlawful increase in rent and decreased housing services were denied. The tenant's base rent had been reduced due to the landlord's failure to allow the tenant to obtain a replacement roommate. The landlord subsequently notified the tenant of her right to obtain a replacement roommate, and restored the prior base rent amount. The tenant appeals, maintaining that the landlord's notice restoring the prior base rent amount was not a proper notice of rent increase.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

VI. Public Hearing

Proposed Amendments to Rules Sections 7.10, 7.11, 7.12 and 7.14 to Implement the "Ammiano" Legislation

A Public Hearing regarding proposed amendments to the capital improvement provisions of the Rules and Regulations necessitated by the passage of the "Ammiano" legislation commenced at 7:50 p.m. and concluded at 7:53 p.m. The only speaker was Robert Pender, who expressed his support for the Ammiano legislation because "50-50 is better than 100%." The Commissioners then discussed the proposed regulations with Senior Administrative Law Judge Sandy Gartzman, who explained the mechanics of the legislation, and how it will be implemented by staff. Commissioner Becker asked that the word "petition", rather

than "application" be used throughout; the Commissioners requested that Energy-Star-compliant refrigerators be added to the 10-year amortization schedule; the Board decided that a tenant cannot rescind an election unless the amount certified changes pursuant to an appeal; and the Board decided that, in the event that more than one petition is filed, the base rent in effect at the time of filing each petition shall be used for purposes of calculating the maximum 15% increase. Staff will draft the above changes and approval of the proposed amendments will be taken up at the March 18th meeting.

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. The appeal decision in the case concerning 1670 Clay St. (AT020245), heard and decided on January 7, 2002, which was continued to the next meeting.
- B. The monthly workload statistics for January 2003 and the corrected statistics for the month of December, 2002.
- C. The appellate decision in the case of Bullard v. Rent Board (A098336), determining that Ordinance Section 37.9(a)(8)(iv) is in contravention of Costa-Hawkins by requiring a landlord evicting for owner occupancy to offer a non-comparable replacement unit to the evicted tenant at a controlled rent.

VIII. Calendar Items

March 11, 2003 - NO MEETING

March 18, 2003

10 appeal considerations

Old Business: Proposed Amendments to Implement "Ammiano" legislation

IX. Adjournment

President Wasserman adjourned the meeting at 9:40 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

February 10, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

NOTICE OF PUBLIC HEARING

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

DATE: March 4, 2003
TIME: 6:30 P.M.
PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)
SUITE 70, LOWER LEVEL
SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO
COMMENT ON PROPOSED CHANGES TO THE RULES AND
REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION
AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN
FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE LANGUAGE
BELOW AMENDING SECTIONS 7.10, 7.11, 7.12, AND 7.14. The proposed
amendments are intended to conform the Rules and Regulations with Ordinance
02-03, effective February 21, 2003, which made changes to the Rent Ordinance
concerning the passthrough of capital improvement costs. The changes to the
amortization periods and the amount of allowable passthroughs apply to
petitions filed on or after November 14, 2002, while the remaining changes apply
to petitions filed after February 21, 2003. The following is a summary of the
major changes:

NEW RULES APPLICABLE TO PROPERTIES WITH 1 TO 5 RESIDENTIAL UNITS:

DOCUMENTS DEPT.

1. Like now, one hundred percent (100%) of the certified costs of capital improvements may be passed through to the tenants.
2. The amortization schedules are changed from the current 7 and 10 years to 10, 15 and 20 years for specified capital improvements.
3. Capital improvement rent increases are limited to 5% of the tenant's base rent

FEB 11 2003

SAN FRANCISCO
PUBLIC LIBRARY



at the time the petition was filed or \$30.00, whichever is greater, in any 12 month period.

NEW RULES APPLICABLE TO PROPERTIES WITH 6 OR MORE RESIDENTIAL UNITS:

1. Only fifty percent (50%) of the certified costs of capital improvements may be passed through to the tenants.
2. Like now, the amortization schedules remain 7 and 10 years for specified capital improvements, and capital improvement rent increases are limited to 10% of the tenant's base rent at the time the petition was filed or \$30.00, whichever is greater, in any 12 month period.
3. **In the alternative**, a tenant may elect to have one hundred percent (100%) of the certified costs passed through to the tenant, with an annual limitation of 5% and a total limitation of 15% of the tenant's base rent applicable to the capital improvement rent increases. (Note: The tenant may elect this alternative within 15 days after a decision based on a 50% passthrough is mailed to the tenant.)

NEW RULES APPLICABLE TO ALL PROPERTIES REGARDLESS OF SIZE:

1. Like now, one hundred percent (100%) of the certified costs of *seismic work required by law* (and other work required by new laws enacted after November 14, 2002) may be passed through to the tenants subject to the 10%/\$30.00 annual limitation. However, the amortization schedule is changed from the current 10 years to 20 years. (Note: Seismic work not required by law is subject to the new rules for properties with 1-5 residential units and properties with 6 or more residential units set forth above.)
2. One hundred percent (100%) of the certified costs of *energy conservation work approved by the Commission on the Environment* may be passed through to the tenants and there is no annual limitation on the amount of the passthrough. (At present, a new EPA Energy–Star-compliant refrigerator is the only item approved for certification under this section.)
3. Beginning with petitions filed on or after February 21, 2003, all capital improvement petitions which request certification of more than \$25,000.00 in costs must include copies of either competitive bids for the work or copies of time and materials billing for work performed by all contractors and subcontractors. Otherwise, the landlord must pay for an estimator hired by the Rent Board.
4. For petitions filed on or after February 21, 2003, the Board may not certify costs of work required to correct code violations for which a notice of violation remained unabated for 90 days, unless the landlord made timely good faith efforts to complete the work within the 90-day period.

The complete proposed amendments read as follows on the next page
(deletions indicated with strikeouts; new language underlined):

1 PROPOSED AMENDMENTS TO PART VII OF THE RULES AND REGULATIONS
2 TO CONFORM TO RECENT ORDINANCE AMENDMENTS PERTAINING TO THE
3 PASSTHROUGH OF CAPITAL IMPROVEMENTS

5 **PART VII LANDLORD APPLICATIONS FOR CERTIFICATION OF CAPITAL**
6 **IMPROVEMENTS, REHABILITATION, AND/OR ENERGY**
7 **CONSERVATION WORK.**

8 **Section 7.10 Filing**

9 (Amended August 29, 1989 by correction May 1, 1990; June 18,
10 1991; subsection (d) added on January 31, 1995; amended
11 March 7, 1995; repealed and adopted April 25, 1995; effective
12 February 1, 1995)

13 (a) Those landlords who seek to pass through the cost of capital
14 improvements, rehabilitation and/or energy conservation work must file an
15 application for certification on a form prescribed by the Board and accompanied
16 by the appropriate filing fee as set forth in Section 3.10(b) above. If at any time
17 prior to filing an application the landlord determines that the total cost of a project
18 for a parcel or a building containing six or more residential units is reasonably
19 expected to exceed \$25,000 multiplied by the number of units on the parcel or in
20 the building, the landlord shall immediately inform each tenant and the Rent
21 Board in writing of the anticipated costs of the work. The landlord's notice must
22 occur within 30 days after such determination by the landlord.

23 (b) Information to Accompany Landlord's Application

24 The application shall be accompanied by: (1) copies of the application in
25 sufficient number to distribute to each of the tenants named in the application,
26 plus one additional copy for the estimator; (2) two copies of all claimed invoices,
27 signed contracts, and cancelled checks substantiating the costs for which the
landlord has not been compensated by insurance proceeds; (3) if claim is made
for uncompensated labor, the application shall include a copy of a log of dates on

which the work was performed; and (4) copies of proof of compliance with the Bureau of Building Inspection for any work claimed for energy conservation measures or other work for which proof of compliance is required by State or local law. For each petition totaling more than \$25,000, in addition to the supporting material prescribed by the Board for all petitions, the applicant must either: (1) Provide copies of competitive bids received for work and materials; or, (2) Provide copies of time and materials billing for work performed by all contractors and subcontractors; or (3) The applicant must pay the cost of an estimator hired by the Board.

(c) Time of Filing Application and Notice

The landlord must file an application before giving legal notice of a rent increase. The notice shall be in conformance with the requirements set forth in Section 4.10 above and shall further include the dollar amount requested based on the amortization of the work performed. This increase shall be inoperative unless and until the application is approved by the Administrative Law Judge. Any amounts approved by the Administrative Law Judge shall relate back to the effective date of the legal notice, if given.

If the landlord sends a notice of rent increase based on capital improvements without first filing an application for certification, the increase shall be null and void. In order to be able to pass through these amounts, an application must first be filed and then a new notice sent.

(d) Special Provision for Owners of Proposition I Affected Units

Landlords of Proposition I Affected Units may petition the Board to certify the cost of capital improvements, rehabilitation and/or energy conservation work in accordance with, and subject to, the rules and procedures set forth in Part 7 of these Rules and Regulations and Section 37.7 of the Rent Ordinance. Events before the unit was subject to the Rent Ordinance may be considered.

Petitions for Proposition I Affected Units based upon capital improvements that
are pending as of, or filed within six months of, April 25, 1995 may, at the request
of the landlord, be treated as if filed on May 1, 1994; provided, however, that the
actual date of filing shall be used to determine the effective date of any rent
increase pursuant to Section 7.10(c) above.

6 (e) Requirements for Certification

7 The Board and designated Administrative Law Judges may only
8 certify the costs of capital improvements, rehabilitation, energy conservation
9 improvements, and renewable energy improvements, where the following criteria
10 are met:

11 (1) The landlord completed capital improvements or
12 rehabilitation on or after April 15, 1979, or the landlord completed installation of
13 energy conservation measures on or after July 24, 1982, and has filed a proof of
14 compliance with the Bureau of Building Inspection in accordance with the
15 requirements of Section 1207(d) of the Housing Code;

16 (2) The landlord has not yet increased the rent or rents to
17 reflect the cost of said work;

18 (3) The landlord has not been compensated for the work by
19 insurance proceeds;

20 (4) The building is not subject to a RAP loan in a RAP area
21 designated prior to July 1, 1977;

22 (5) The landlord files the certification petition no later than
23 five years after the work has been completed;

(6) The cost is not for work required to correct a code

violation for which a notice of violation has been issued and remained unabated for 90 days unless the landlord made timely good faith efforts within that 90-day period to commence and complete the work but was not successful in doing so because of the nature of the work or circumstances beyond the control of the landlord. The landlord's failure to abate within the original 90-day period raises a rebuttable presumption that the landlord did not exercise timely good faith efforts.

Section 7.11 Inspection of the Building

If the Board or its Executive Director determines that inspection by a qualified estimator of the building is necessary to determine whether the application shall be approved, the landlord and tenants shall provide entry to the Rent Board's representative at a convenient time during normal business hours.

(a) The necessity for use of an estimator in a particular case may be determined after consideration of the following factors, among others:

- (1) the cost of the work;
 - (2) the number of units;
 - (3) complexity of the work performed;
 - (4) objections made pursuant to Section 7.15 below;
 - (5) whether the landlord provided copies of competitive bids or
ials billings for work performed by all contractors and

(b) A qualified estimator is a person:

- (1) who is not a San Francisco city employee; but
(2) who is selected by the Rent Board or the Executive Director because he or she is qualified and experienced in the area of residential rehabilitation, such as a member of the American Society of Estimators,

subscribing to its Code of Professional Ethics and Standards of Professional Conduct. The estimator shall operate under the direction of the Board or its Executive Director.

Section 7.12 Allocation of Cost of Improvements or Work to Individual Units

(Amended March 14, 1989; August 29, 1989; June 18, 1991;
Subsection (b) amended October 20, 1998)

(a) The cost of capital improvements, rehabilitation, and/or energy conservation work for which the landlord has not been compensated by insurance proceeds shall be allocated to each unit in the building. The method used for cost allocation shall be that which most reasonably takes into account the extent to which each unit benefits from the improvements or work. Methods which may be appropriate, depending on the circumstances, include allocation based on the square footage in each unit, allocation based on the rent paid for each unit, and equal division among all units. Where the improvements do not benefit all units, only those benefited may be charged the additional rent. For example, if a new roof were installed, the rents of all units in the building may be raised to cover the cost. But if, in addition, a new floor had been installed in one unit, that unit would be charged its proportionate share of the roof cost plus the cost of the new floor. Costs attributable to units where the rent cannot be raised (because of a lease restriction, owner occupancy, or other reason) may not be allocated to the other units. Costs attributable to routine repair and maintenance shall not be certified but shall be considered part of the costs of operating and maintenance.

(b) Effect of Vacancy on Rent Increases Requested for Capital Improvements

If a unit becomes vacant and is rerented after completion of capital improvements, rehabilitation, and/or energy conservation work listed in an

application for certification, no additional rent will be allowed on the unit based on the improvements or work since the landlord has the opportunity to bring the unit up to market rent at the time the unit is rerented. This section also applies to those units rented during the construction period for the project of which the work is a part, as stated in the permit(s), contract document(s), and/or as shown by other relevant evidence, or rented within six months of the commencement of work for which an application for certification is filed, provided that ownership has not changed in that period.

(c) Amortization Periods and Cost Allocation

Costs shall be amortized on a straight-line basis over a seven or ten-year period depending upon which category described below most closely relates to type of improvement or work and its estimated useful life. The Board shall apply the amortization periods and cost allocation formulas as set forth below.

SCHEDULE I - SEVEN YEAR AMORTIZATION

The following shall be amortized over a 7 year period: Appliances, such as new stoves, disposals, refrigerators, washers, dryers and dishwashers; fixtures, such as garage door openers, locks, light fixtures, water heaters and blankets, shower heads, time clocks and hot water pumps; and other improvements, such as carpeting, linoleum, and exterior and interior painting of common areas. If the appliance is a replacement for which the tenant has already had the benefit, the cost will not be amortized as a capital improvement, but will be considered part of operating and maintenance expenses.

Appliances may be amortized as capital improvements when (1) part of a remodeled kitchen; (2) based upon an agreement between the tenant and landlord; and/or (3) it is a new service or appliance the tenant did not previously have.

SCHEDULE II - TEN YEAR AMORTIZATION

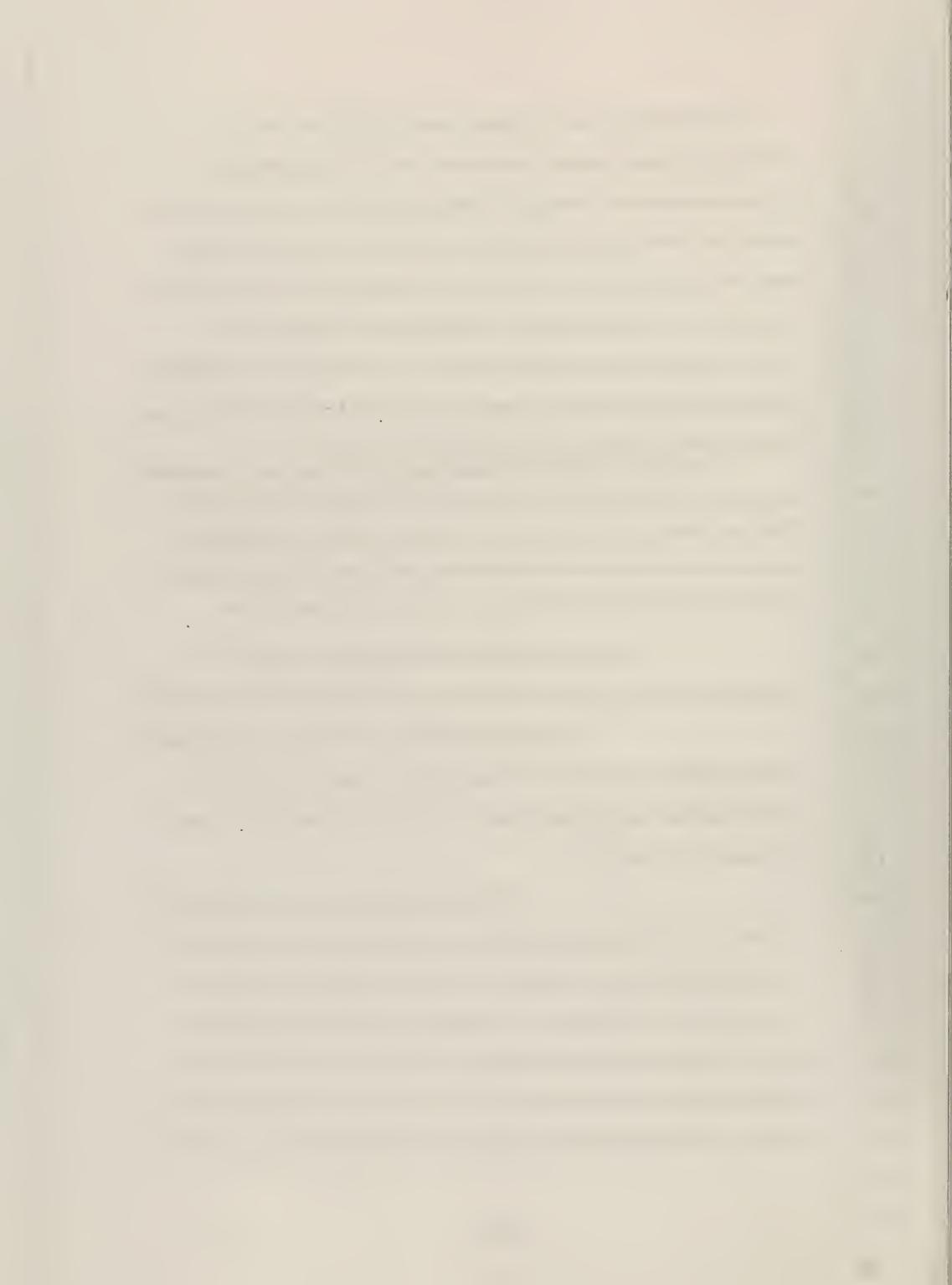
Major improvements to the structure of the building such as: new foundation, new floor structure, new ceiling or walls—new sheetrock, new plumbing (new fixtures, or piping,) weatherstripping, ceiling insulation, seals and caulking, new furnaces and heaters, new wiring, new stairs, new roof structure, new roof cover, new window, fire escapes, central smoke detection system, new wood or tile floor cover, new partitioning sprinkler, boiler replacement, air conditioning—central system, exterior siding or stucco, elevators, and/or additions such as patios or decks, central security system, new doors, new mail boxes, new kitchen cabinets, or sinks, shall be amortized over ten years.

(d) Except in extraordinary circumstances, to be determined by the Board on appeal, no increase under this subsection shall exceed, in a twelve-month period, ten (10%) of the tenant's base rent or \$30.00, whichever is greater. A landlord may accumulate any certified increase which exceeds this amount and impose the increase in subsequent years subject to the limitation herein.

(1) Applications Filed Before November 14, 2002. The following provisions shall apply to all applications filed before November 14, 2002:

(A) Amortization Periods. Costs shall be amortized on a straight-line basis over a seven or ten-year period, depending upon which category described below most closely relates to the type of work or improvement and its estimated useful life.

(i) Schedule I - Seven-Year Amortization. The following shall be amortized over a seven-year period: Appliances, such as new stoves, disposals, washers, dryers and dishwashers; fixtures, such as garage door openers, locks, light fixtures, water heaters and blankets, shower heads, time clocks and hot water pumps; and other improvements, such as carpeting, linoleum, and exterior and interior painting of common areas. If the appliance is a replacement for which the tenant has already had the benefit, the cost will not be



1 amortized as a capital improvement, but will be considered part of operating and
2 maintenance expenses. Appliances may be amortized as capital improvements
3 when: (1) part of a remodeled kitchen; (2) based upon an agreement between the
4 tenant and landlord; and/or (3) it is a new service or appliance the tenant did not
5 previously have.

6 (ii) Schedule II - Ten-Year Amortization. The
7 following shall be amortized over a ten-year period: New foundation, new floor
8 structure, new ceiling or walls - new sheetrock, new plumbing (new fixtures, or
9 piping,) weather stripping, ceiling insulation, seals and caulking, new furnaces and
10 heaters, refrigerators, new electrical wiring, new stairs, new roof structure, new
11 roof cover, new window, fire escapes, central smoke detection system, new wood
12 or tile floor cover, new sprinkler system, boiler replacement, air conditioning-
13 central system, exterior siding or stucco, elevator rebuild, elevator cables,
14 additions such as patios or decks, central security system, new doors, new mail
15 boxes, new kitchen or bathroom cabinets, and sinks.

16 (B) Allowable Increase. One hundred percent (100%)
17 of the certified costs of capital improvements, rehabilitation, and energy
18 conservation improvements may be passed through to the tenants who benefit
19 from such work and improvements. However no increase under this Subsection
20 7.12(c)(1) shall exceed, in a twelve-month period, ten percent (10%) of the
21 tenant's base rent at the time the petition was filed or \$30.00, whichever is
22 greater. A landlord may accumulate any certified increase which exceeds this
23 amount and impose the increase in subsequent years, subject to this 10% or
24 \$30.00 limitation.

25 (2) Applications Filed On or After November 14, 2002 For
26 Qualified Energy Conservation Improvements and Renewable Energy
27 Improvements. For Applications filed on or after November 14, 2002, the

1 following provisions shall apply to certification of costs for qualified energy
2 conservation improvements and renewable energy improvements:

3 (A) Amortization Periods and Allowable Costs. For
4 purposes of this Subsection, qualified energy conservation improvements and
5 renewable energy improvements are:

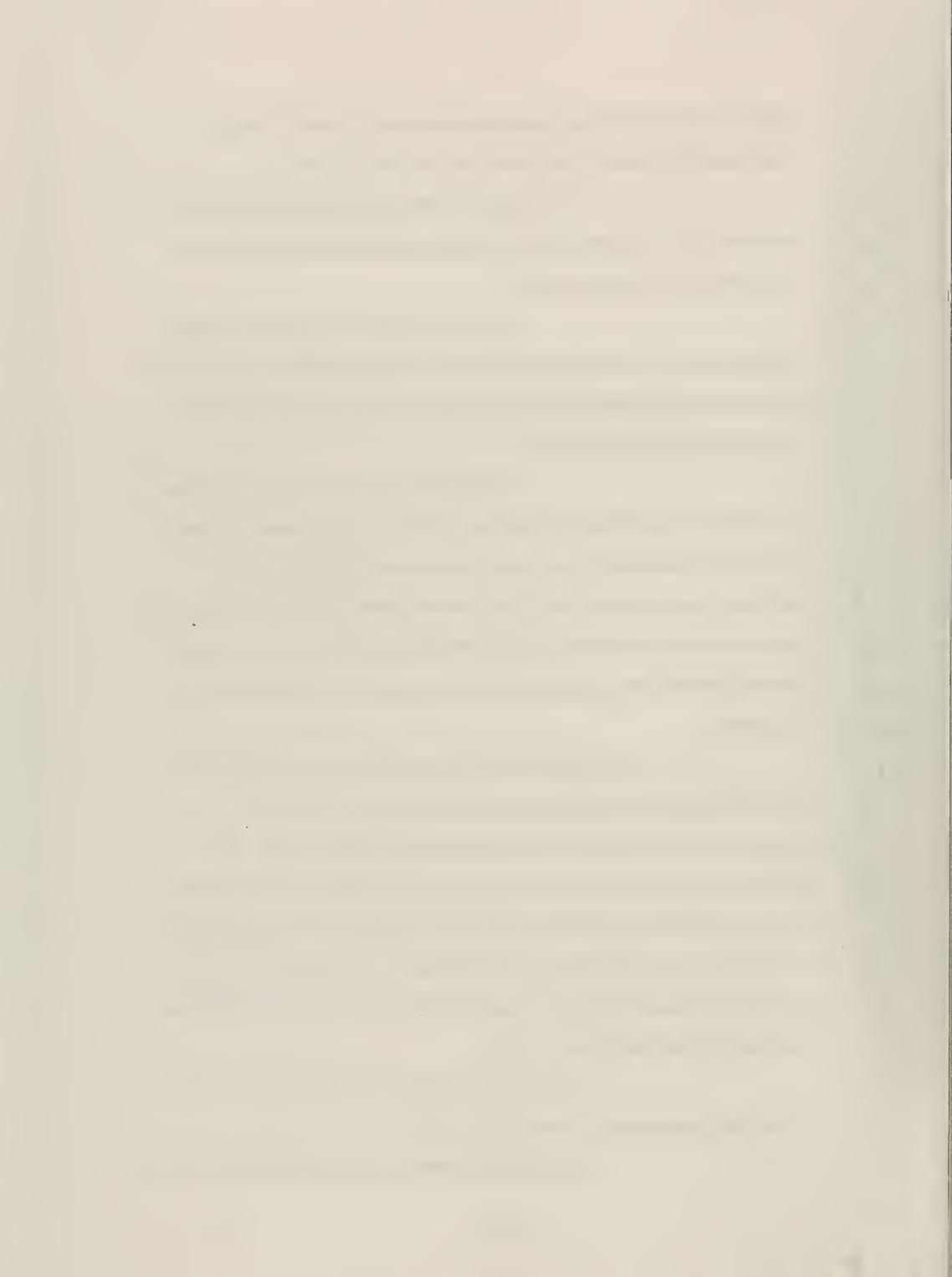
6 (i) 100% of new EPA Energy-Star-compliant
7 refrigerators where the refrigerator replaced is more than five years old and where
8 the unit has separate metering, which costs shall be amortized on straight-line
9 basis over a ten-year period; and,

10 (ii) Other improvements as may be approved
11 by the Board of Supervisors upon recommendation of the Rent Board, following
12 hearings and development of an Energy Conservation Improvements and
13 Renewable Energy Improvements List of energy conservation improvements and
14 renewable energy improvements that demonstrably benefit tenants in units that
15 have separate electrical and/or natural gas metering by the Commission on the
16 Environment.

17 (3) Applications Filed On or After November 14, 2002 For
18 Seismic Work and Improvements Required by Law, and for Work and
19 Improvements Required by Laws Enacted After November 14, 2002. For
20 applications filed on or after November 14, 2002, the following provisions shall
21 apply to certification of costs for seismic work and improvements required by law
22 and to costs for capital improvement, rehabilitation, energy conservation, and
23 renewable energy work and improvements required by federal, state, or local laws
24 enacted on or after November 14, 2002:

25 (C) Amortization Periods. Costs shall be amortized
26 on a straight-line basis over a twenty-year period.

27 (D) Allowable Increase. One hundred percent (100%)



1 of the certified costs of capital improvement, rehabilitation, energy conservation,
2 and renewable energy work and improvements required by law may be passed
3 through to the tenants who benefit from such work and improvements. Any rent
4 increases under this Subsection 7.12(c)(3) shall not exceed, in a twelve-month
5 period, a total of ten percent (10%) of the tenant's base rent at the time the
6 petition was filed or \$30.00, whichever is greater. A landlord may accumulate any
7 certified increase which exceeds this amount and impose the increase in
8 subsequent years, subject to this 10% or \$30.00 limitation.

9 (4) Applications Filed On or After November 14, 2002 for
10 Other Work and Improvements On Properties With Five Residential Units or Less.
11 For applications filed on or after November 14, 2002, the following provisions shall
12 apply to certification of all work and improvements for properties containing five
13 residential units or less, with the exception of work and improvements costs
14 certified for passthrough under Subsections 7.12(c)(2) or 7.12(c)(3):

15 (A) Amortization Periods. Costs shall be amortized on
16 a straight-line basis over a ten, fifteen or twenty-year period, depending upon
17 which category described below most closely relates to the type of work or
18 improvement and its estimated useful life.

19 (i) Schedule I - Ten-Year Amortization. The
20 following shall be amortized over a ten-year period: New roof structure, new roof
21 cover, electrical heaters, central security system, telephone entry systems, new
22 wood frame windows, new mailboxes, weather-stripping, ceiling insulation, seals
23 and caulking, central smoke detection system, new doors and skylights;
24 appliances, such as new stoves, disposals, refrigerators, washers, dryers and
25 dishwashers; fixtures, such as garage door openers, locks, light fixtures, water
26 heaters and blankets, shower heads, time clocks and hot water pumps; and other
27 improvements, such as carpeting, linoleum, and exterior and interior painting of

common areas. If the appliance is a replacement for which the tenant has already had the benefit, the cost will not be amortized as a capital improvement but will be considered part of operating and maintenance expenses. Appliances may be amortized as capital improvements when: (1) part of a remodeled kitchen; (2) based upon an agreement between the tenant and landlord; and/or (3) it is a new service or appliance the tenant did not previously have.

(ii) Schedule II - Fifteen-Year Amortization.

The following shall be amortized over a fifteen-year period: New floor structure, new ceiling or walls - new sheetrock, wood decks, new stairs, new furnaces and gas heaters, new thermal pane windows, new wood or tile floor cover, new sprinkler systems, air conditioning-central system, exterior siding or stucco, elevator rebuild, elevator cables, new kitchen or bathroom cabinets, and sinks.

(iii) Schedule III - Twenty-Year Amortization.

The following shall be amortized over a twenty-year period: New foundation, new plumbing (new fixtures or piping), boiler replacement, new electrical wiring, fire escapes, concrete patios, iron gates, sidewalk replacement and chimneys.

(B) Allowable Increase. One hundred percent (100%) of the certified costs of capital improvement, rehabilitation, and energy conservation work and improvements may be passed through to the tenants who benefit from such work and improvements. However, no increase under this Subsection 7.12(c)(4) shall exceed, in a twelve-month period, five percent (5%) of the tenant's base rent at the time the petition was filed or \$30.00, whichever is greater. A landlord may accumulate any certified increase which exceeds this amount and impose the increase in subsequent years subject to this 5% or \$30.00 limitation.

(5) For Applications Filed On or After November 14, 2002 for Other Work and Improvements for Properties with Six or more Residential Units.

1 For applications filed on or after November 14, 2002, the following provisions shall
2 apply to certification of all work and improvements for properties containing six
3 residential units or more, with the exception of work and improvements certified
4 under Subsections 7.12(c)(2) or 7.12(c)(3):

5 (A) Amortization Periods. Costs shall be amortized on
6 a straight-line basis over a seven or ten-year period, depending upon which
7 category described below most closely relates to the type of work or improvement
8 and its estimated useful life.

9 (i) Schedule I - Seven-Year Amortization. The
10 following shall be amortized over a seven-year period: Appliances, such as new
11 stoves, disposals, washers, dryers and dishwashers; fixtures, such as garage
12 door openers, locks, light fixtures, water heaters and blankets, shower heads,
13 time clocks and hot water pumps; and other improvements, such as carpeting,
14 linoleum, and exterior and interior painting of common areas. If the appliance is a
15 replacement for which the tenant has already had the benefit, the cost will not be
16 amortized as a capital improvement, but will be considered part of operating and
17 maintenance expenses. Appliances may be amortized as capital improvements
18 when: (1) part of a remodeled kitchen; (2) based upon an agreement between the
19 tenant and landlord; and/or (3) it is a new service or appliance the tenant did not
20 previously have.

21 (ii) Schedule II - Ten-Year Amortization. The
22 following shall be amortized over a ten year period: New foundation, new floor
23 structure, new ceiling or walls - new sheetrock, new plumbing (new fixtures, or
24 piping) weather stripping, ceiling insulation, seals and caulking, new furnaces and
25 heaters, refrigerators, new electrical wiring, new stairs, new roof structure, new
26 roof cover, new window, fire escapes, central smoke detection system, new wood
27 or tile floor cover, new sprinkler system, boiler replacement, air conditioning-

1 central system, exterior siding or stucco, elevator rebuild, elevator cables,
2 additions such as patios or decks, central security system, new doors, new mail
3 boxes, new kitchen or bathroom cabinets, sinks, telephone entry system,
4 skylights, iron gates, sidewalk replacement and chimneys.

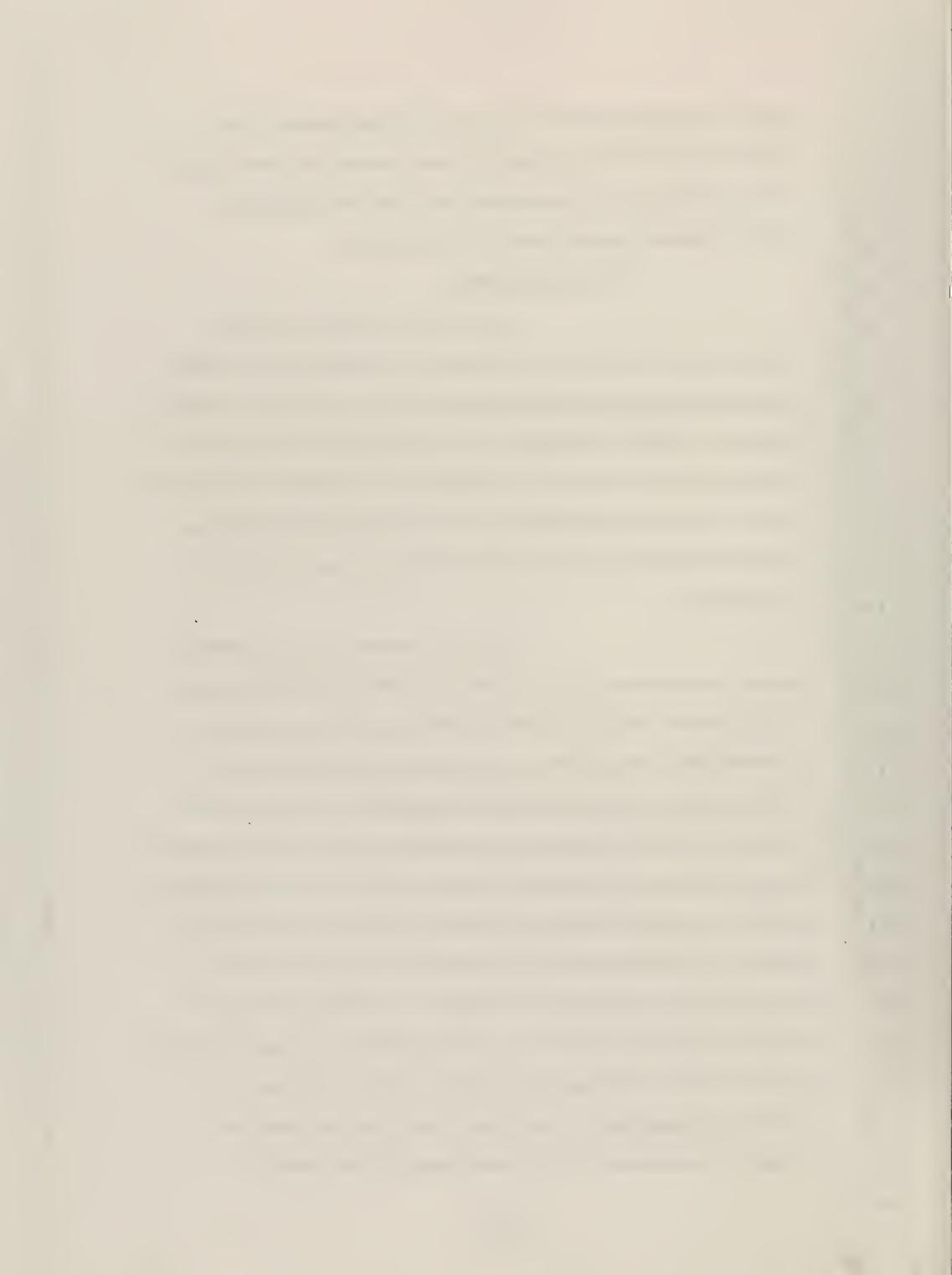
5 (B) Allowable Increase.

6 (i) Only fifty percent (50%) of the costs

7 certified under this Subsection 7.12(c)(5) may be passed through to the tenants
8 who benefit from such work and improvements. However, no increase under this
9 Subsection 7.12(c)(5) shall exceed, in a twelve-month period, ten percent (10%)
10 of the tenant's base rent at the time the petition was filed or \$30.00, whichever is
11 greater. A landlord may accumulate any certified increase which exceeds this
12 amount and impose the increase in subsequent years, subject to this 10% or
13 \$30.00 limitation.

14 (ii) In the alternative, a tenant may elect to

15 have one hundred percent (100%) of the costs certified under this Subsection
16 7.12(c)(5) passed through to the tenant. In that event no increase under this
17 Subsection shall exceed, in a twelve-month period, five percent (5%) of the
18 tenant's base rent at the time the application was filed, and over the life of the
19 tenancy the total increase shall never exceed fifteen percent (15%) of the tenant's
20 base rent at the time the application was filed. A tenant must elect this alternative
21 by filing such an election with the Board on a form prescribed by the Board. An
22 election may be filed at any time after the application is filed but no later than
23 fifteen (15) calendar days after the Administrative Law Judge's decision on the
24 application is mailed to the tenant. In a unit with multiple tenants, the election form
25 must be signed by a majority (more than 50%) in order for the election to be
26 accepted. If a timely election is made after a decision has been issued, an
27 addendum to the decision will be issued reflecting the tenant's election.



1 **Section 7.14 Allowance of Interest**

2 (Amended October 4, 1994; amended Subsection (b)(2) and
3 adding subsection (b)(3), January 19, 1999)

4 A landlord who expends funds for capital improvements or rehabilitation
5 work shall be entitled to a reasonable rate of interest. Any allowance of interest,
6 whether imputed or real, in favor of a landlord pursuant to this section shall be
7 limited to no more than ten (10) percent and shall be amortized over a period
8 equal to the amortization period of the improvement, ~~subject to the limitations~~
9 contained in Section 7.12(d). The following rules shall apply to any request for
the allowance of interest.

10 (a) Allowance of Actual Interest Incurred. The landlord has the burden of
11 proof to establish the actual rate of interest. To meet this burden, the landlord
12 must submit, at a minimum, either the applicable loan agreement, promissory
13 note or other admissible documentary evidence substantiating the rate of interest.
14 In addition, the landlord has the burden to show that the actual rate of interest for
15 which an allowance is sought is reasonable under the circumstances.

16 (b) Allowance of Imputed Interest. In cases where the landlord does not
17 incur or prove in accordance with subsection (a) any actual interest expense on
18 funds used for capital improvements or rehabilitation work, the landlord shall be
19 entitled to an allowance of imputed interest. The rate of imputed interest shall be
20 determined in accordance with the following rules:

21 (1) On March 1 of each year, in accordance with subparagraph (b)(2),
22 the Board shall publish two four rates of imputed interest. Subject to the ten (10)
23 percent limitation contained in the first paragraph of this rule, the published rates
24 shall constitute the rates of imputed interest to be allowed on petitions filed on or
25 after March 1 through February 28 (or February 29, as the case may be) of the
26 following year.

(2) The first rate shall be the average of the twelve most recent monthly rates (rounded to the nearest tenth) as posted by the Federal Reserve on their Federal Reserve Statistical Release Internet site for seven-year Treasury Securities and shall apply to certified capital improvement costs amortized over a seven-year period in accordance with Section 7.12(c).

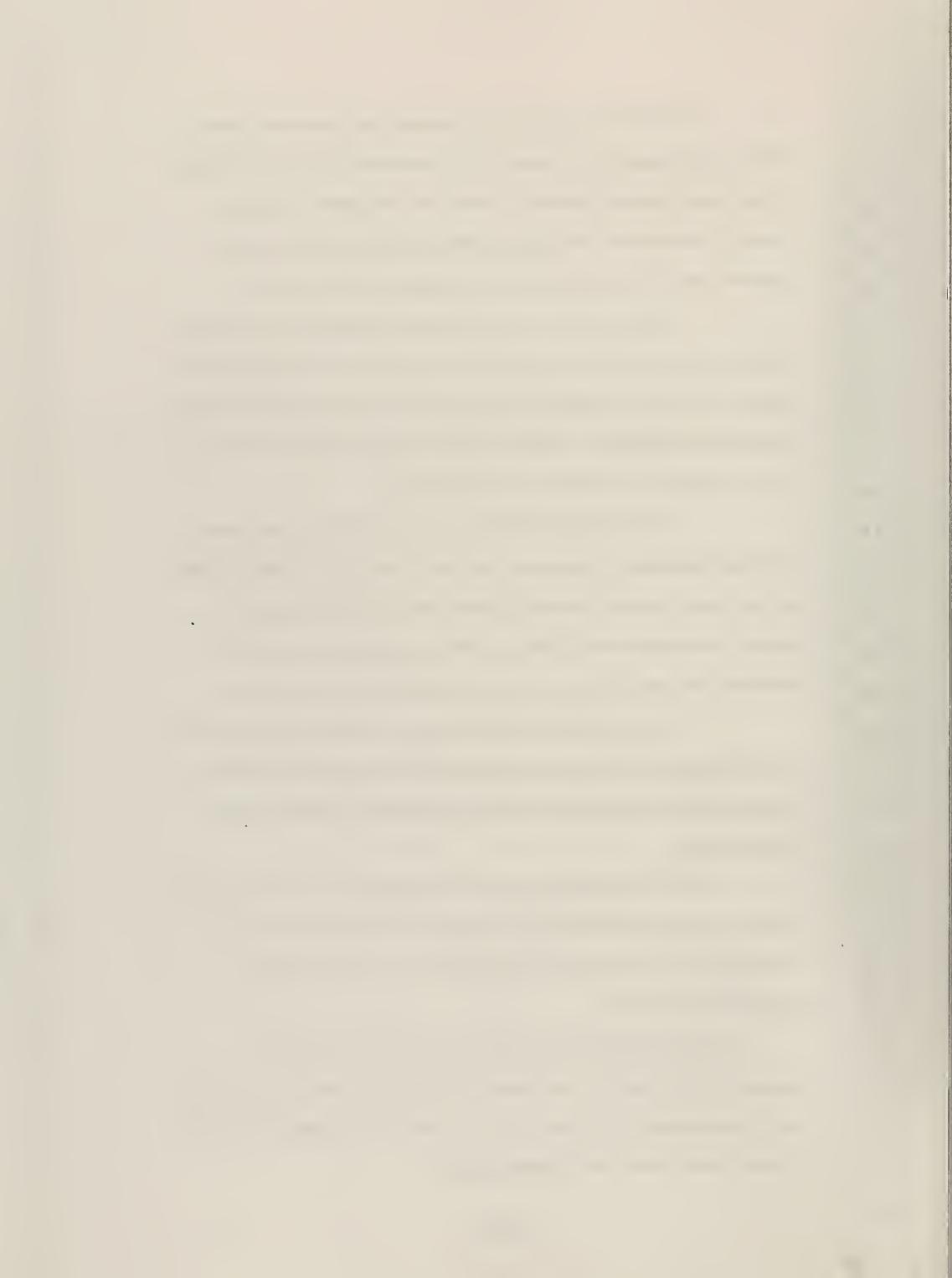
The second rate shall be the average of the twelve most recent monthly rates (rounded to the nearest tenth) as posted by the Federal Reserve on their Federal Reserve Statistical Release Internet site for ten-year Treasury Securities and shall apply to certified capital improvement costs amortized over a ten-year period in accordance with Section 7.12(c).

The third rate shall be the average of the twelve most recent monthly rates (rounded to the nearest tenth) as posted by the Federal Reserve on their Federal Reserve Statistical Release Internet site for twenty-year Treasury Securities and shall apply to certified capital improvement costs amortized over a twenty-year period in accordance with Section 7.12(c).

The fourth rate shall be the average of the ten-year and twenty-year rates (rounded to the nearest tenth) and shall apply to certified capital improvement costs amortized over a fifteen-year period in accordance with Section 7.12(c).

(3) These rates shall be calculated by December 15th of each year using the average of the twelve most recent monthly rates posted by the Federal Reserve for seven, and ten and twenty-year maturity Treasury Securities as of this date.

(c) Government Subsidies or Guarantees. Notwithstanding subparagraphs (a) and (b) of this Section, if the interest is less than 10 percent due to governmental or any other subsidy or guarantee, the landlord shall only be entitled to the actual rate of interest incurred.



1 (d) This Section was amended on October 4, 1994 and is effective for
2 petitions filed on or after October 18, 1994. The Board shall publish the
3 applicable rate of interest for petitions filed between October 18, 1994 February
4 21, 2003 and February 28, 1995 2003 before October 18, 1994 February 21,
5 2003.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Citv and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,

March 18, 2003

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

DOCUMENTS DEPT.

I. Call to Order

MAR 12 2003

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

II. Roll Call

SAN FRANCISCO
PUBLIC LIBRARY

III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 1053 Oak St., Apt. 203 AT030009

The tenant appeals the decision correcting the improper calculation of a PG&E passthrough.

B. 25 Camp St. #1, 2, 4, 5 & 6 AT030017

The landlord appeals the decision granting claims of decreased housing services, alleging non-receipt of the notice of hearing.

C. 1439 Ocean Ave. #2 AT030011

The tenant appeals the decision denying a claim of unlawful rent increase because the premises are exempt pursuant to Costa-Hawkins.

D. 450 Duboce Ave., Apt. #4 AT020012

One tenant appeals the decision certifying the costs of exterior painting.

E. 29 Lupine #D AT020613

The tenant appeals the decision determining that she is not a "Tenant in Occupancy" pursuant to Rules and Regulations Section 1.21.

F. 677 – 47th Ave. AT030016

The tenant appeals the decision partially granting claims of decreased housing services.



G. 7 – 9th Ave. AL030015

The landlord appeals the decision granting claims of unlawful rent increases and decreased housing services.

H. 2511-2513 Sacramento St. AL030010

The landlord appeals the decision certifying capital improvement costs but finding notices of rent increase defective.

I. 2708 – 23rd St. AL030014

The landlord appeals the decision granting a claim of unlawful rent increase, claiming that the increase is warranted under Costa-Hawkins.

J. 144 Parnassus Ave. #19 AT030013

The tenant appeals the decision granting a claim of unlawful rent increases but finding that Golden Gateway barred many of the decreased housing services claims.

VI. Communications

VII. Director's Report

VIII. Old Business

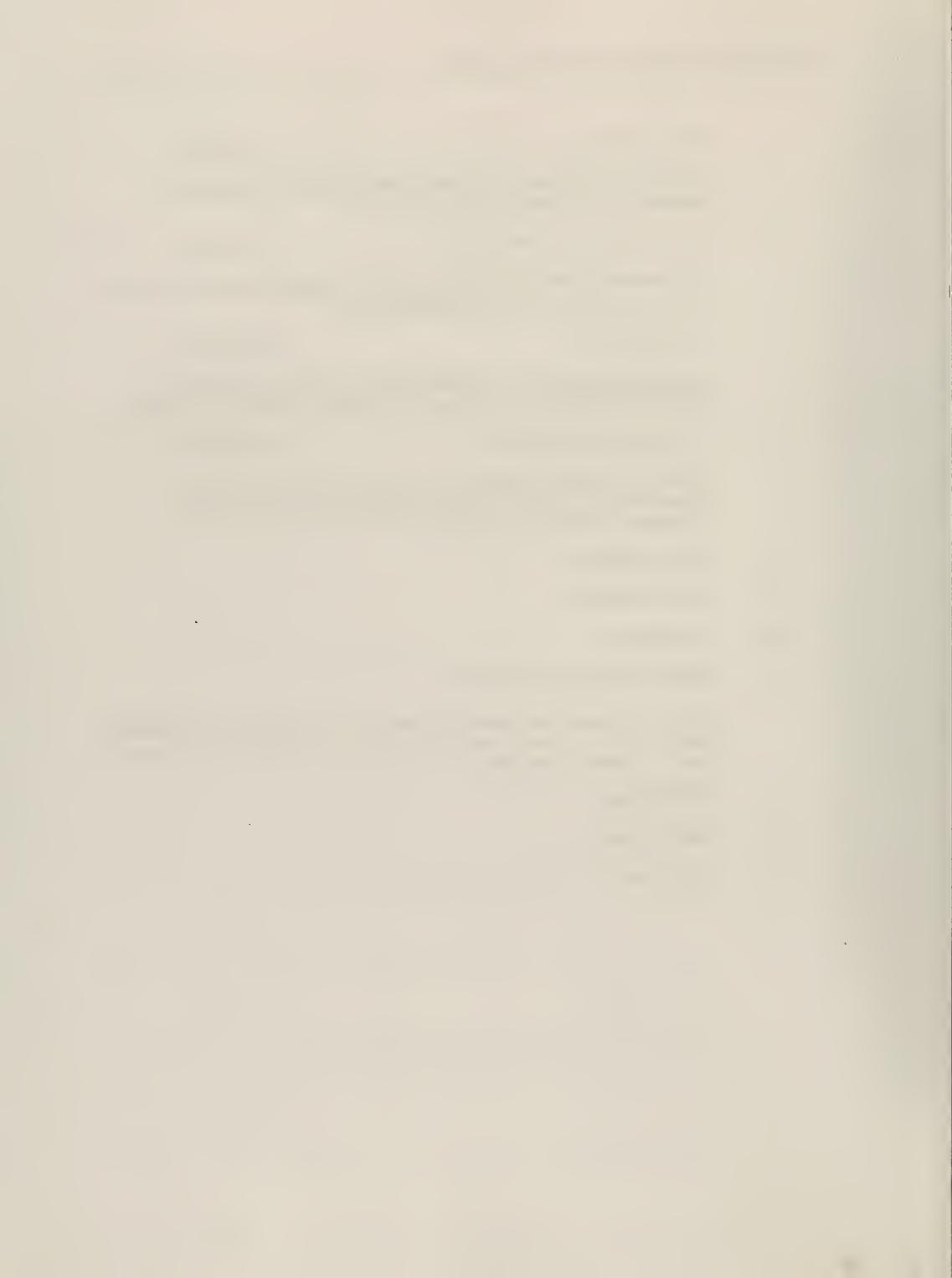
IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

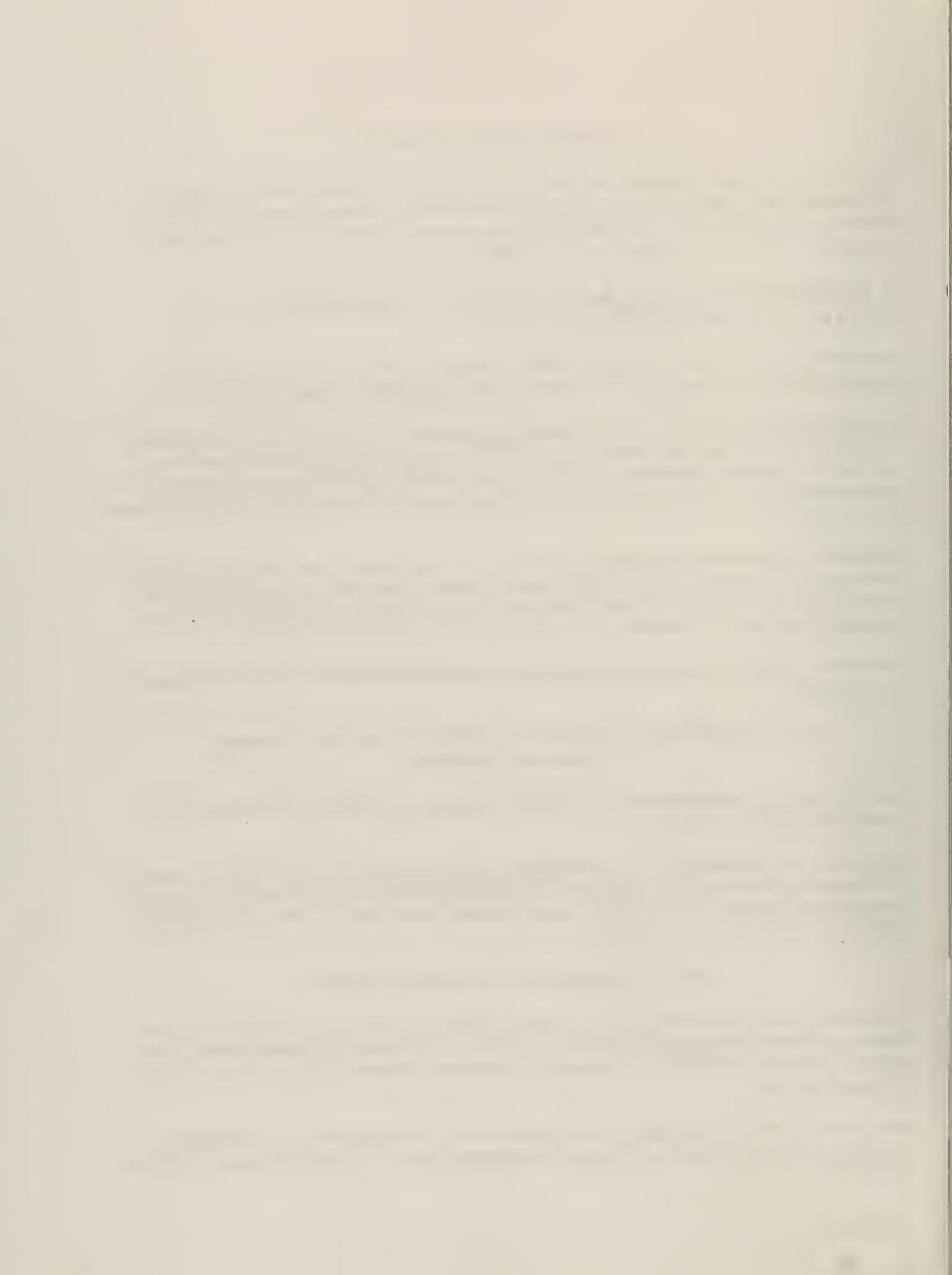
The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.



City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, March 18, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

I. Call to Order

President Wasserman called the meeting to order at 6:10 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Commissioners Present: Becker; Gruber; Marshall; Mosser; Murphy; Wasserman.
Commissioners not Present: Lightner.
Staff Present: Gartzman; Wolf.

Commissioner Justman appeared on the record at 6:16 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 4, 2003.
(Gruber/Becker: 5-0)

IV. Remarks from the Public

A. Attorney Robert Gates, representing the landlord in the case at 144 Parnassus (AT030013), told the Board that the hearings in this matter were "exhaustive" and that the Administrative Law Judge "did an able job." He depicted the dispute as being over a commercial art studio that was never intended for residential occupancy, and said that the landlord did not appeal the finding of jurisdiction in the interests of settlement.

B. Alan Lerch, the landlord in the case at 29 Lupine #D (AT020613), told the Board that he did not receive the Notice of Appeal Consideration in time to respond, since it was sent to an old address. Mr. Lerch did not request a continuance, and just wished to support the Decision of the Administrative Law Judge.

C. Robert Pender, Vice-President of the Parkmerced Residents' Organization PRO), distributed copies of the Tenant Times. Mr. Pender told the Commissioners that he had been given a 3-Day Notice to Pay Rent or Quit, and was the third male member of PRO's Board of Directors to have received such a notice.

D. Tenant Anita Barnes of 1439 Ocean #2 (AT030011) told the Board that she is losing her rent control protections due to Costa-Hawkins and it is unfair that she is facing a 66% rent increase through no fault of her own.



V. Consideration of Appeals

A. 1053 Oak St., Apt. 203

AT030009

The tenant's appeal was filed three days late because the tenant misinterpreted the deadline for filing the appeal, and the tenant has been under a lot of pressure trying to complete required course work.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The tenant's petition alleging improper calculation of a PG&E passthrough was denied, although the Administrative Law Judge corrected the amount of the passthrough. On appeal, the tenant asserts that: payment of individual utility bills as well as a PG&E passthrough constitutes fraudulent double-billing; the new corridor lights are not as efficient as the old ones; rate increases are not supposed to apply to low-income persons; and payment of the PG&E passthrough constitutes a financial hardship.

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

B. 25 Camp St. #1, 2, 4, 5 & 6

AL030017

The landlord's appeal was filed two months late because the landlord failed to receive a copy of the notice of hearing or the Decision of the Administrative Law Judge.

MSC: To find good cause for the late filing of the appeal.
(Becker/Murphy: 5-0)

Five tenant petitions alleging decreased housing services due to an inoperative doorbell intercom system were granted and the landlord was found liable to each tenant in the amount of \$100 per month. The landlord failed to appear at the hearing. On appeal, the landlord alleges that he failed to receive notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing. (Murphy/Gruber: 5-0)

C. 1439 Ocean Ave. #2

AT030011

The tenant's petition alleging an unlawful rent increase was denied because the Administrative Law Judge found that the tenant's unit is separately alienable from the title to any other dwelling unit and is therefore exempt pursuant to Costa-Hawkins. On appeal, the tenant maintains that: when she moved into the building the lower unit had been rented out, which gave her vested rights under rent control; the tenant's rights should not be affected by the landlord's having incorporated the residential space into another commercial unit; the Decision of the Administrative Law Judge establishes a dangerous precedent which allows landlords to remove rental units in order to exempt the premises from rent control; a contract cannot be changed unilaterally after the fact; there are factual errors in the decision; and the rent increase creates a hardship for the tenant.

After discussion, it was the consensus of the Board to continue consideration of this appeal in order to have the Administrative Law Judge research the legislative intent of Costa-Hawkins and attempt to ascertain whether these facts fall within the exemption of single family homes and condominiums mandated by the legislation.

D. 450 Duboce Ave., Apt. #4

AT020012

The landlord's petition for certification of the costs of exterior painting to 16 of 26 units was granted, resulting in a monthly passthrough in the amount of \$24.43. One tenant appeals the decision, arguing that: the building was not completely painted; the old lead-based paint was not scraped off prior to the new paint being applied; and the cost is excessive for an incomplete and unprofessional job.

MSC: To deny the appeal. (Murphy/Justman: 5-0)

E. 29 Lupine #D

AT020613

The landlord filed a petition seeking a determination as to whether the tenant is a "Tenant in Occupancy" pursuant to Rules and Regulations Section 1.21, and the Administrative Law Judge found that the unit does not constitute the tenant's principal place of residence. The tenant appeals, maintaining that she has established that the subject unit is her primary residence, although she does not return there every night. The tenant claims that many modern married couples have multiple residences to accommodate their complex lives and relationships.

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

F. 677 – 47th Ave.

AT030016

The tenant's appeal was filed five days late because the tenant confused business days with calendar days and was ill for 10 of the 15 days.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 5-0)

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,677.50 due to the loss of use of the back yard and washer and dryer. The tenant appeals the denial of several other claims raised in his petition, arguing that: storage was provided as a housing service at the inception of the tenancy; the landlord and his agents have lied about the tenant; the Administrative Law Judge did not properly apply the law and consider the evidence; the value of the reduction in services is greater than the amount granted; there are factual errors in the decision; and the burden of proof was higher than the tenant expected.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

G. 7 – 9th Ave.

AL030015

The tenant's petition alleging unlawful increases in rent and decreased housing services was granted and the landlords were found liable to the tenant in the amount of \$778.08 due to unlawful rent increases and \$259.00 due to defective bedroom windows. Storage was also determined to be part of the tenant's housing services included in base rent. The landlord appeals, claiming that: there are factual errors in

the decision; the rent overpayment calculations are incorrect; storage in the building is available to the tenants for an extra fee; the tenant is in violation of his lease agreement; the tenant damaged the windows; and the tenant never notified the landlord of the problem with the windows.

MSC: To recuse Commissioner Becker from consideration of this appeal.
(Marshall/Gruber: 5-0)

MSC: To deny the appeal. (Marshall/Justman: 4-0)

H. 2511-2513 Sacramento St.

AL030010

The landlords' petition for certification of the costs of exterior painting and new copper piping was granted. However, the Administrative Law Judge determined that the capital improvement passthroughs were temporarily discontinued because notices of annual rent increase issued by the landlord failed to include the capital improvement passthrough. On appeal, the landlord asserts that: a 30-day notice of capital improvement passthrough was issued to the tenants after the filing of the petition, and this notice should suffice; the current capital improvement passthrough was not included on the notice of annual rent increase because the landlord did not know the amount that was going to be approved; and the Administrative Law Judge did not point out the error in the notice at the time of the hearing, which prejudiced the landlords from correcting the error earlier.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

I. 2708 – 23rd St.

AL030014

The tenants' petition alleging an unlawful increase in rent was granted, because the Administrative Law Judge found that the tenants were tenants rather than subtenants and therefore no Costa-Hawkins increase was warranted. On appeal, the landlord maintains that: the petitioners are subtenants who moved in to the subject unit in 1999 and no original occupants currently reside at the unit; the Administrative Law Judge relied on hearsay evidence in rendering her decision; obtaining credit information on a prospective occupant does not make them a tenant; the tenants signed an addendum to the rental agreement acknowledging their status as subtenants; and the landlord is not required to exercise their rights under Costa-Hawkins within a certain period of time.

MSC: To deny the appeal. (Becker/Marshall: 4-1; Gruber dissenting)

J. 144 Parnassus Ave. #19

AT030013

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$14,974.27. Additionally, the landlord was found liable for decreased housing services claims during a period of renovation work throughout the building in the amount of \$887.50. However, the Administrative Law Judge found that many of the tenant's claims regarding conditions during the renovation were barred by the decision in Golden Gateway v. Rent Board, or because the tenant had failed to notify the landlord regarding the problem. On appeal, the tenant asserts that: the Administrative Law Judge's reliance on the Golden Gateway decision was incorrect because the work substantially interfered with the tenant's right to occupy the premises, was not effectuated in a reasonable or timely manner and was elective in nature; the Administrative Law Judge failed to rule

on claims of trespass in that a credenza, a refrigerator and windows were stored in the tenant's art studio without her consent; plaster dust resulting from plumbing work performed in the apartment and studio completely permeated the tenant's belongings and a greater rent reduction should have been granted; renovation of a unit above and work in the tenant's studio have compromised her use of the unit; and the leaks from the light well and above bathrooms have not been corrected.

MSC: To recuse Commissioner Becker from consideration of this appeal.
(Marshall/Murphy: 5-0)

MSC: To accept the appeal and remand the case on the record to the Administrative Law Judge to make Conclusions of Law on two items inadvertently omitted from the Decision; to deny the appeal as to all other issues. (Murphy/Gruber: 3-1; Marshall dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. An e-mail from former Commissioner Khin Aung, letting the Board know her new address in New York.

B. The current issue of the Tenant Times.

C. The appeal decision in the case concerning 1670 Clay St. (AT020245), heard and decided on January 7, 2002, which was approved by the Board and signed by President Wasserman.

IV. Remarks from the Public (cont.)

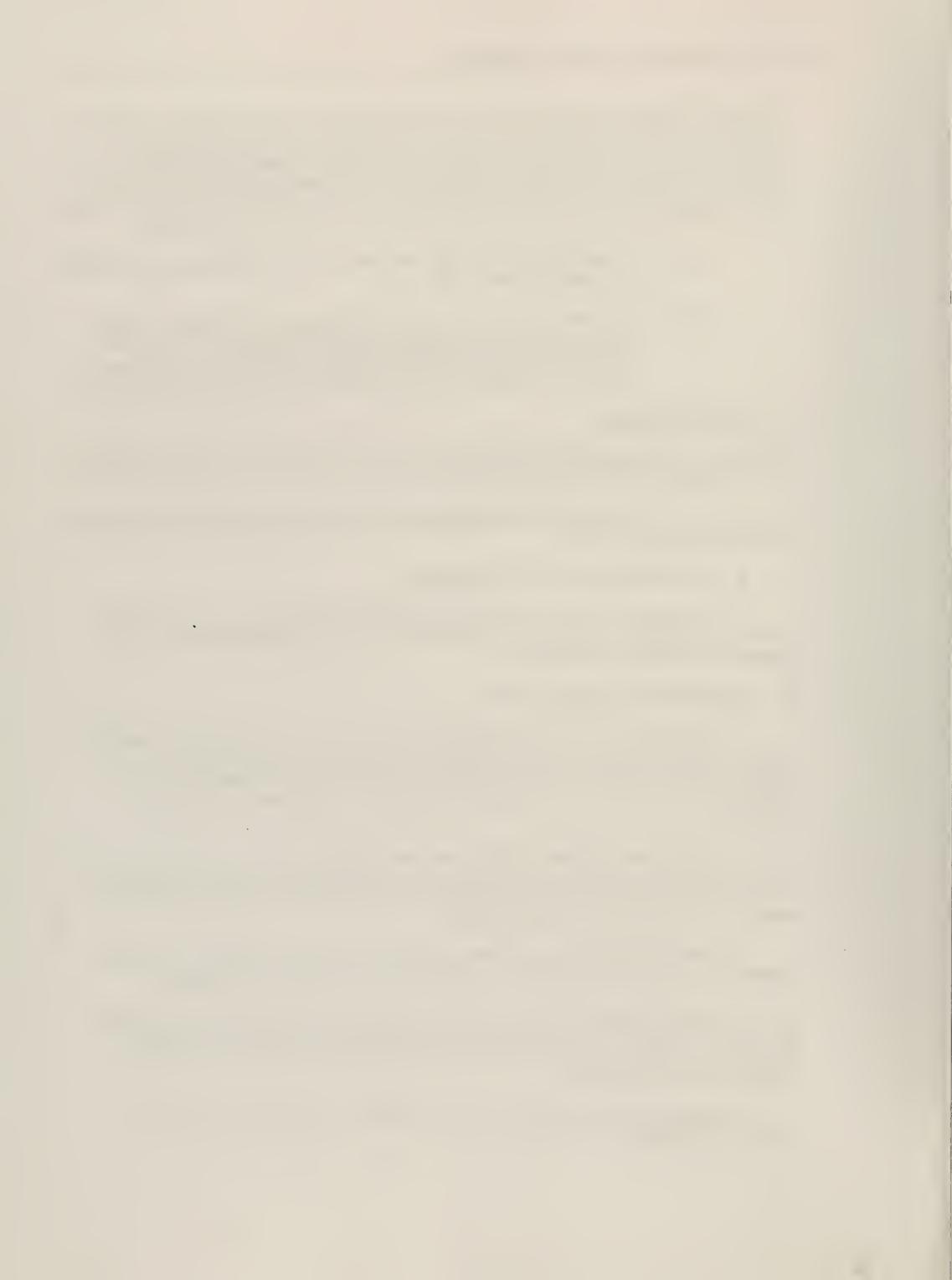
E. Helen Young, the landlord in the case at 7 – 9th Ave. (AL030015), said that she feels that \$70 per month is too much for a broken window during the summer months, and that just the hinge was loose. Ms. Young also disputes the overpayment calculations in the decision and says that the base rent amount is incorrect.

F. John Shea, the tenant in the case concerning 7 – 9th Ave. (AL030015), told the Commissioners that the 3 x 4' window was dry rotted, a foot and a half from his bed, and that it took over 7 months to get it fixed. He thanked the Board for their decision concerning the landlord's appeal.

G. Landlord Helen Young told the Board that she caught the tenant stealing windows from a vacant apartment, and that's what started the whole dispute.

H. Tenant Anita Barnes told the Commissioners that an attorney friend had attempted to explore the legislative history of Costa-Hawkins and found cases concerning subtenants only. She informed the Board that the landlord would not negotiate with her attorney.

I. Landlord Helen Young inquired as to whether there were any additional avenues of appeal.



J. Robert Pender informed the Board that there would be a Tenants' Convention, and not a conference. He also told the Board about the upcoming Community Congress.

VII. New Business

Senior Administrative Law Judge Sandy Gartzman conducted a brief training for the Board on the provisions of the new Ammiano legislation concerning capital improvements.

VIII. Calendar Items

March 25, 2003 - NO MEETING

April 1, 2003

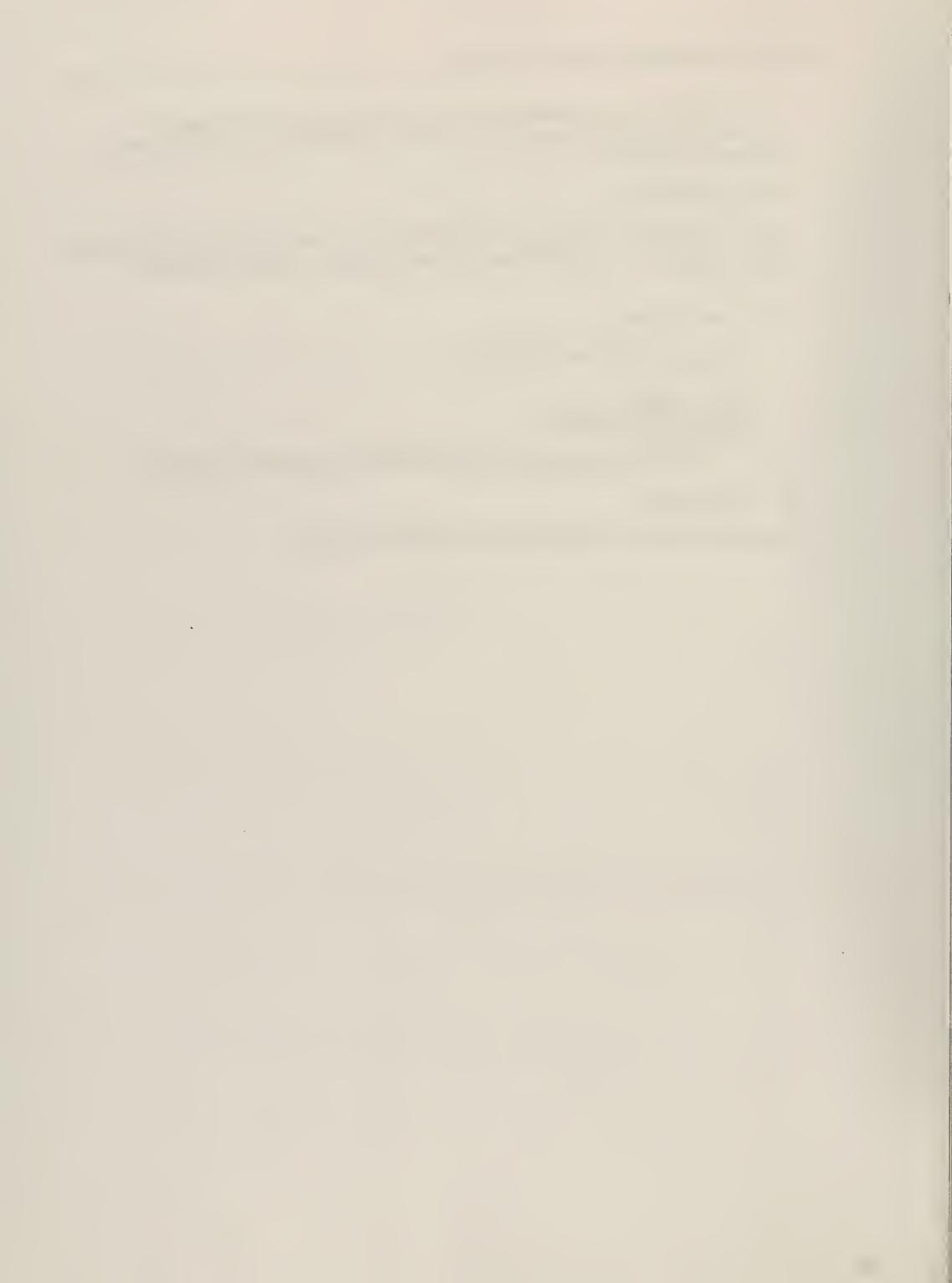
8 appeal considerations

Old Business:

Proposed Amendments to Implement the "Ammiano" Legislation

IX. Adjournment

President Wasserman adjourned the meeting at 8:21 p.m.



City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

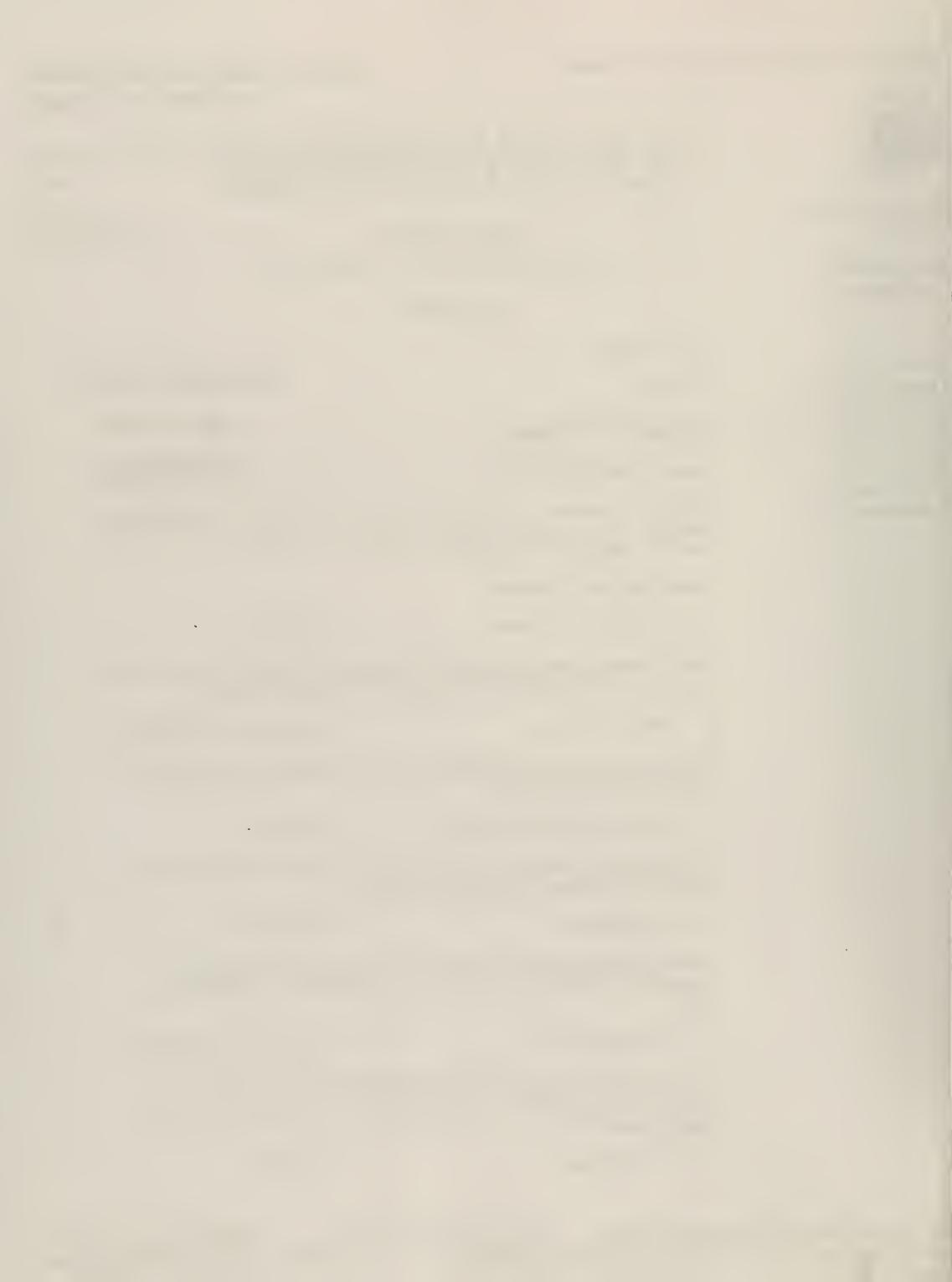
WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
April 1, 2003
25 Van Ness Avenue, #70, Lower Level

AGENDA

KHIN MAI AUNG	I.	Call to Order	DOCUMENTS DEPT.
LARRY BEACH BECKER	II.	Roll Call	MAR 27 2003
DAVID GUSTAV GRUBER	III.	Approval of the Minutes	SAN FRANCISCO PUBLIC LIBRARY
FREDERICK HOBSON	IV.	Remarks from the Public	
ANTHONY JUSTMAN		NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.	
MERRIE T. LIGHTNER	V.	Consideration of Appeals	
NEVEO MOSSER	A.	1215-1217 – 3 rd Ave.	AL030024
BARTHOLOMEW MURPHY		The landlord appeals the decision granting claims of decreased housing services, claiming not to have received the Notice of Hearing.	
	B.	1266 – 20 th Ave.	AL030021 & AT030022
		The landlord and tenant appeal the decision partially granting claims of decreased housing services.	
	C.	1395 Lyon St. #2, 3, 4, 6 & 8	AL030019
		The landlord appeals the decision denying a petition for rent increases based on increased operating expenses.	
	D.	141 Albion St.	AT030020
		The tenant appeals the decision granting a claim of unlawful rent increases but finding that the tenant is responsible for paying utility costs.	
	E.	117 Farallones St.	AL030027 & AT030028
		The landlords and tenants appeal the decision granting a claim of unlawful rent increases but denying the tenants' claim of decreased housing services.	
	F.	849 – 29 th Ave.	AT030023



The tenant appeals the decision certifying capital improvement costs, alleging that the work was necessitated by deferred maintenance.

G. 2355 Leavenworth #602 AT030026

The tenant appeals the determination that he is not a "Tenant in Occupancy" pursuant to Rules and Regulations Section 1.21.

H. 335 Richland Ave. #A AT030025

The tenant appeals the decision granting only one of his decreased housing services claims.

VI. Communications

VII. Director's Report

VIII. Old Business

Proposed Amendments to Rules Sections 7.10, 7.11, 7.12 and 7.14 to Implement the "Ammiano" Legislation

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71-Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, April 1, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

APR 15 2003

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:07 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Marshall; Murphy.
Commissioners not Present: Lightner; Mosser; Wasserman.
Staff Present: Grubb; Lee; Wolf.

Commissioner Justman appeared on the record at 6:17 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 18, 2003.
(Gruber/Becker: 4-0)

IV. Consideration of Appeals

A. 1215-1217 – 3rd Ave.

AL030024

Two tenant petitions alleging decreased housing services due to the loss of quiet enjoyment of the premises were granted and the landlord was found liable to the tenants in the amounts of \$7,400.00 and \$9,800.00. On appeal, the landlord's agent claims not to have received notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

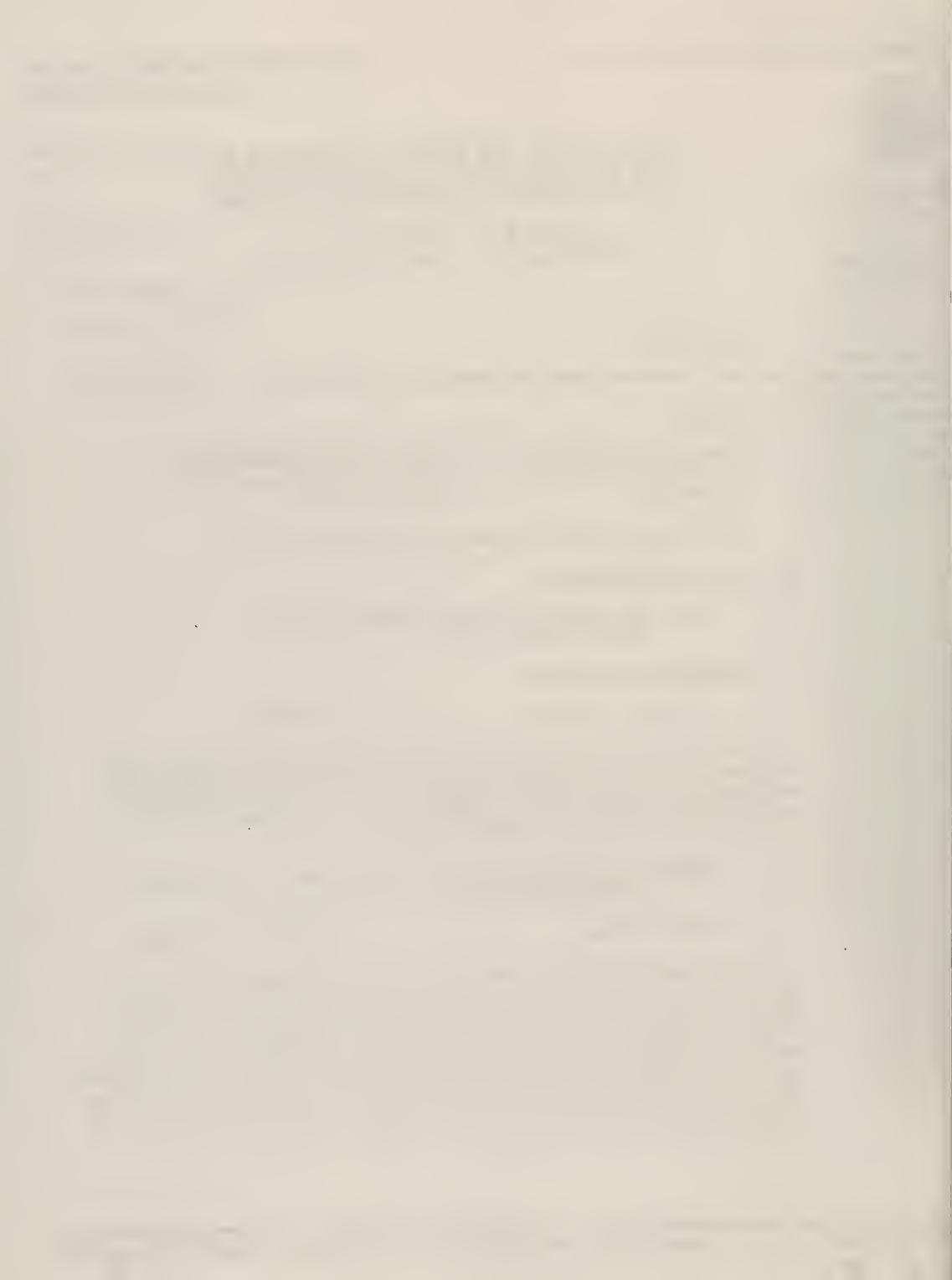
MSC: To accept the appeal and remand the case for a new hearing.
(Murphy/Gruber: 4-0)

B. 1266 – 20th Ave.

AL030021 & AT030022

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,183.50. The tenant appeals, asserting that: the leaking roof was not adequately repaired between October 1990, when the landlord was first notified, and June 2002, when the roof was replaced, despite actual and constructive notice to the landlord; and the landlord had constructive notice that the attempted repairs had not rectified the condition of the front gate and front entry door. The landlord also appeals, claiming that the roof was repaired in April of 2000, and the tenant should have notified the landlord if this was not the case.





MSC: To deny both the landlord's and tenant's appeals except to remand the case to the Administrative Law Judge to make Findings and Conclusions on the issue of constructive notice regarding the gate and front entry door; a hearing will be held only if necessary. (Murphy/Gruber: 5-0)

C. 1395 Lyon St. #2, 3, 4, 6 & 8

AL030019

The landlord's petition for rent increases based on increased operating expenses was denied because it was found that the landlords had failed to prove an increase in management expenses. On appeal, the landlords claim that: the decision is discriminatory against retired landlords who cannot afford to retain the services of a professional property manager and therefore provide the services themselves; the services provided to the building by the landlord are extensive; the decision contradicts advice given by a different Administrative Law Judge in an earlier case; and there are factual errors in the decision.

MSC: To accept the appeal and remand the case to the Administrative Law Judge only to issue a Technical Correction as to the amount listed for debt service in the decision; the appeal is denied as to all other issues. (Becker/Murphy: 5-0)

D. 141 Albion St.

AT030020

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$1,309.89. However, the Administrative Law Judge determined that, pursuant to the agreement of the parties, the tenant is responsible for paying 1/4 of the utility costs for the building. On appeal, the tenant asserts that: there are factual inaccuracies in the decision; she should not have to pay for utilities because it is not required pursuant to the copy of the lease that is in her possession; there is no fair way to determine appropriate utility charges; the Administrative Law Judge placed too much weight on the issue of waiver in rendering his decision; and the tenant uses less utilities than the other units in the building.

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

E. 117 Farallones St.

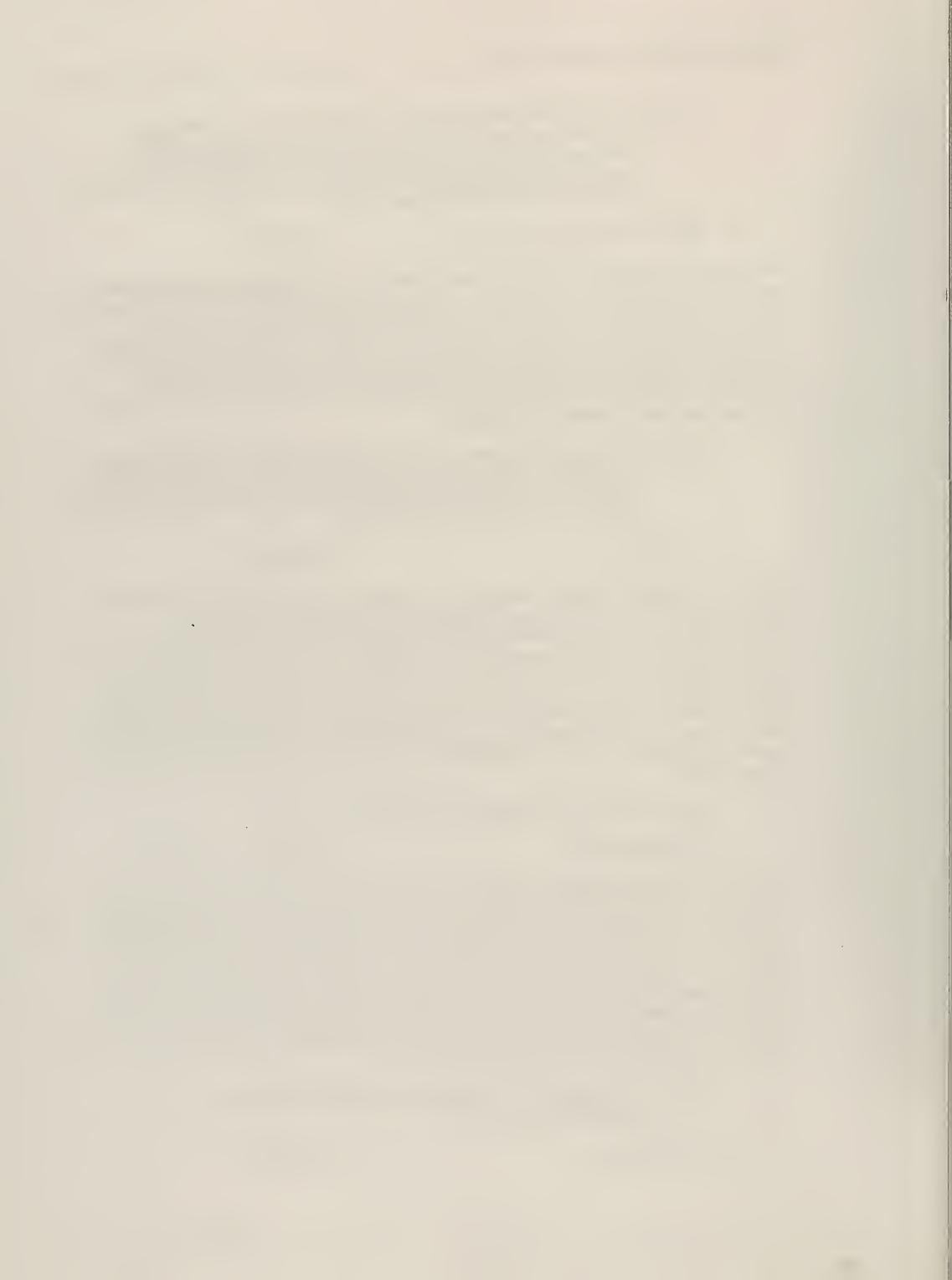
AL030027 & AT030028

The tenants' petition alleging unlawful rent increases was granted and the landlords were found liable to the tenants in the amount of \$4,200.00 in rent overpayments. The portion of the tenants' petition raising claims of decreased housing services was denied. The landlords and the tenants appeal the decision. The tenants claim that the unit is not a legal unit and they should be compensated on that basis. The landlords assert that they should be credited for the lawful amount they could have raised the rent each year; that there was a verbal agreement that the tenants' rent would be increased once additional space became available; and that the rent for the unit was considerably below comparable rents.

MSC: To deny both the tenants' and landlords' appeals.
(Murphy/Gruber: 5-0)

F. 849 – 29th Ave.

AT030023



The landlord's petition for certification of capital improvement costs to one unit was granted, in part. Rent overpayments in the amount of \$1,902.00 were also determined to be owing from the landlord to the tenant. The tenant appeals, claiming that the replacement of the back stairs was necessitated by the landlord's deferred maintenance.

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

G. 2355 Leavenworth #602 AT030026

The tenant's appeal was filed 23 days late because the tenant was out of town when the decision was mailed.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 5-0)

The landlord's petition for a determination pursuant to Rules and Regulations Section 1.21 was granted, and the Administrative Law Judge found that the tenant was not a "Tenant in Occupancy" at the time the petition was filed. On appeal, the tenant claims that: he re-established residency at the subject unit in September of 2001, and the unit has been his usual place of return after temporary periods of absence since that time.

MSC: To deny the appeal. (Gruber/Murphy: 3-2; Becker,
Marshall dissenting)

H. 335 Richland Ave. #A AT030025

The tenant's petition alleging decreased housing services was denied except that the landlords were found liable in the amount of \$22.50 due to a broken living room light switch. On appeal, the tenant claims that: the landlord was aware of a problem with insufficient heat in the unit for roughly two years, and a rent reduction should have been granted for this problem; and the \$40 per month rent reduction he received from the landlords for removal of his parking privileges did not constitute sufficient compensation.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

V. Remarks from the Public

Zulfikar Cumali, the landlord in the case at 1395 Lyon St. (AL030019), said that he was told by an Administrative Law Judge that he was entitled to be reimbursed for his management of the building at the rate of 5-7% of his gross income. Mr. Cumali believes that the Decision of the Administrative Law Judge denying his operating and maintenance expense petition is discriminatory against small landlords, who do the work of managing their property themselves.

VI. Director's Report

Executive Director Grubb passed out "Sunshine Declarations" for the Commissioners to submit with their Statements of Economic Interest.

VII. Old Business

Proposed Amendments to Rules Sections 7.10, 7.11, 7.12 and 7.14 to Implement the "Ammiano" Legislation

Pursuant to the Public Hearing held on March 4, 2003, the Board briefly discussed proposed amendments to the capital improvement provisions of the Rules and Regulations necessitated by the passage of the "Ammiano" legislation with Senior Administrative Law Judge Tim Lee. Staff drafted language to satisfy certain concerns voiced by various Board members, namely: the word "application" was replaced by the word "petition" throughout; Energy-Star-compliant refrigerators were added to the 10-year amortization schedule; it was made clear that a tenant cannot rescind an election unless the amount certified changes pursuant to an appeal; and it was specified that, in the event that more than one petition is filed, the base rent in effect at the time of filing each petition shall be used for purposes of calculating the maximum 15% increase. The Commissioners approved the above changes, and passed the below motion:

MSC: To adopt the proposed amendments to Rules and Regulations Sections 7.10, 7.11, 7.12 and 7.14, as clarified.
(Justman/Gruber: 5-0)

VIII. Calendar Items

April 8, 2003 - NO MEETING

April 15, 2003

8 appeal considerations

Old Business:

Brown v. Rent Board (Shiu) (Superior Court Case No. 501394)

IX. Adjournment

Vice-President Marshall adjourned the meeting at 7:22 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
April 15, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

APR 15 2003

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

SAN FRANCISCO
PUBLIC LIBRARY

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations,
members of the public shall be limited to comments of no more
than 3 minutes' duration.

- V. Consideration of Appeals

A. 598 Flood St. AT030035

The tenant appeals the decision certifying capital improvement costs on
the grounds of financial hardship.

B. 1080 Post St. #1 AT030034

Two tenants in one unit appeal the decision certifying capital
improvement costs on the grounds of financial hardship.

C. 2117 – 48th Ave. AT030032

The tenant appeals the decision certifying capital improvement costs on
the grounds of financial hardship.

D. 1671 Lombard St. #11 AT030036 & -37

Two tenants in one unit appeal the decisions certifying capital
improvement costs and granting rent increases due to increased
operating expenses on the grounds of financial hardship.

E. 759 Harrison St. #2 AL030031

The landlord appeals the decision granting rent reductions due to
decreased housing services.

F. 909 Geary St. #424 AL030030



The property manager appeals the decision granting rent reductions due to a faulty elevator.

G. 143 Jasper Place AT030033

One tenant appeals the decision certifying capital improvement costs on hardship and other grounds.

H. 1040 Dolores St. #206 AT030029

The tenant appeals the remand decision certifying capital improvement costs on the grounds of financial hardship.

VI. Communications

VII. Director's Report

VIII. Old Business

Brown v. Rent Board (Shiu) (Superior Court Case No. 501394)

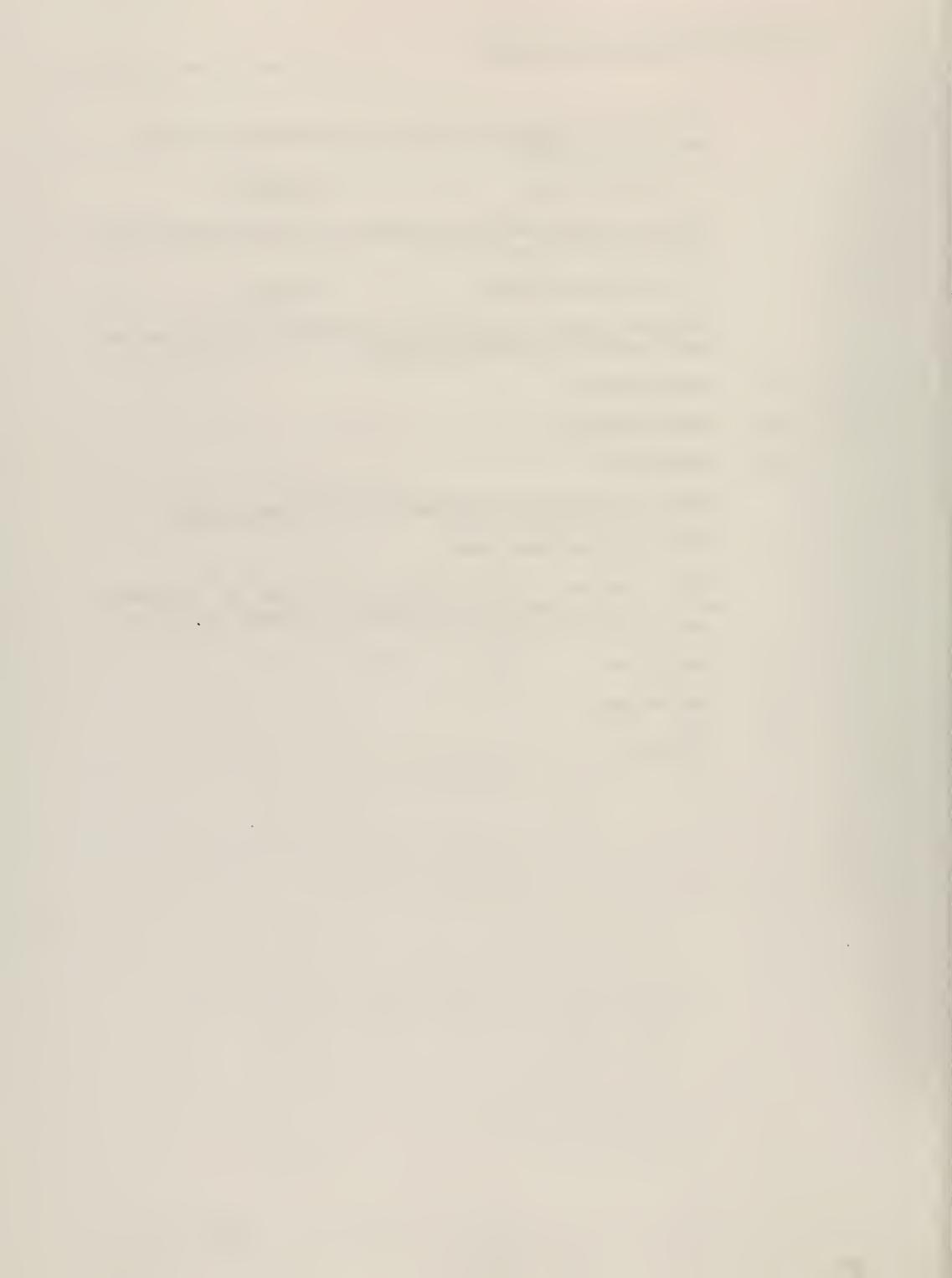
IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



5/03
SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, April 15, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

APR 29 2003

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

Commissioner Gruber called the meeting to order at 6:11 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Mosbrucker; Mosser;
Murphy.

Commissioners not Present: Lightner; Marshall; Wasserman.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:52 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 1, 2003.
(Becker/Murphy: 3-0)

IV. Remarks from the Public

A. Frank Kalmar, the landlord in the case concerning 66 Hazelwood Ave. (AT030035), told the Board that he only owns one duplex. Mr. Kalmar took out a loan for seismic retrofit of the building and a new bathroom, and his petition for certification of the costs was approved five years ago. The tenant is now saying he didn't know of his right to file a hardship appeal, but Mr. Kalmar claims that the tenant is more educated about the rent law than he is.

V. Consideration of Appeals

A. 598 Flood St./66 Hazelwood Ave. AT030035

The tenant's hardship appeal of a decision certifying capital improvement costs was filed almost five years late because the tenant allegedly did not receive a copy of the decision, and therefore did not know of his right to appeal on the basis of financial hardship.

Because of the lack of a neutral Commissioner at this point in the meeting, consideration of this appeal was continued.

B. 1080 Post St. #1

AT030034





The landlord's petition for certification of capital improvement costs to 8 units was granted. Two tenants in one unit appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Becker/Murphy: 3-0)

C. 2117 – 48th Ave.

AT030032

The tenant's appeal was filed 15 days late because she was out of town when the decision was mailed, and her neighbor did not give her the mail he retrieved for her for some time after her return.

MSC: To find good cause for the late filing of the appeal.
(Becker/Murphy: 3-0)

The landlords' petition for certification of capital improvement costs to 2 of 4 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Murphy: 3-0)

D. 1671 Lombard St. #11

AT030036 & AT030037

The landlords' petition for certification of capital improvement costs to 7 of 12 units was granted. The tenants in one unit appeal the decision on the grounds of financial hardship. Additionally, the tenants are filing to re-open the issue of the one-year hardship deferral of an operating and maintenance expense increase they were granted in March of 2002.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship regarding the current capital improvement passthrough and the operating and maintenance expense increase granted in 2002. (Becker/Murphy: 3-0)

E. 759 Harrison St. #2

AL030031

The tenants' petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$7,000.00 due to serious habitability defects on the premises. On appeal, the landlord claims that: the subject premises is a commercial space that is not intended for residential occupancy, and therefore the landlord is not required to maintain the unit in a "habitable" condition; it was not reasonably to be expected that the unit would conform to the same standards as a residential unit; several of the conditions existed at the inception of the tenancy and no reduction in services has occurred; and the problem with inadequate heat is caused by partition walls erected by a former tenant, and the current tenants have no incentive to cooperate with removal of the walls.

MSC: To deny the appeal. (Becker/Murphy: 3-0)

F. 909 Geary St. #424

AL030030

The tenant's petition alleging decreased housing services due to a non-functional elevator was granted and the landlord was found liable to the tenant in the amount of \$720.00. The property manager for the building did not appear at the hearing because they did not receive notice. On appeal, the property manager asserts: that the tenant's testimony at the hearing was inaccurate; that the elevator was ordinarily repaired within a 24-hour period; and that when the elevator was out of service for more than 24 hours, it was due to major scheduled repairs.

MSC: To accept the appeal and remand the case for a new hearing.
(Murphy/Becker: 3-0)

G. 143 Jasper Alley

AT030033

The landlords' petition for certification of capital improvement costs stemming from seismic retrofitting of the building was granted. One tenant appeals the decision, questioning whether there is a disproportionate allocation of costs since not all tenants in the building use the garage and asserting a claim of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship only; the appeal is denied as to all other issues. (Becker/Murphy: 3-0)

H. 1040 Dolores St. #206

AT030029

The landlords' petition for certification of capital improvement costs was granted, in part. The appeals of two tenants were accepted and remanded for a Technical Correction and on two issues raised by the tenants. Upon stipulations from the landlord, a remand decision was issued on the existing record. One of the two tenant appellants now appeals the remand decision on the grounds of financial hardship.

MSC To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Murphy: 3-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the Order Granting Writ of Administrative Mandamus in the case of Baba v. Board of Supervisors.

B. A copy of an Ordinance introduced by Supervisor Peskin that changes the way that interest on security deposits is calculated. The legislation will go to Committee on Monday, April 21st.

C. A copy of an Ordinance introduced by Supervisor Peskin conforming the Rent Ordinance to the Ellis Act amendments that took effect on January 1, 2003.

D. New copies of the Ordinance and Rules and Regulations.

E. A copy of the Notice of Public Hearing regarding the Residential Hotel Visitor Policy Ordinance, which will be held on May 6th at 6:30 p.m.

VII. Director's Report

Executive Director Grubb informed the Commissioners that he will be out of town from April 17th through the 23rd, returning to the office on Thursday, April 24th. He also informed the board that amendments to the Rent Ordinance introduced by Supervisor Matt Gonzales were heard before the Housing and Land Use Committee yesterday. Supervisor Gonzales has requested that the 18 proposed amendments be broken into 12 parts to be introduced as stand-alone Ordinances at the pleasure of the Chair.

VIII. Old Business

Brown v. Rent Board (Shiu) (Superior Court Case No. 501394)

In accordance with the Judgment granting the Peremptory Writ of Mandate in the above-captioned case, the Board voted as follows below:

MSC: To remand the case to the Administrative Law Judge to make a further factual finding of whether the owner has received "written notice" of Cecily Upton's tenancy pursuant to Civil Code Section 1954.53(d)(4). (Becker/Murphy: 4-0)

IV. Remarks from the Public (cont.)

B. The landlord in the case at 143 Jasper Alley (AT030033) asked at what point a landlord stops doing renovations if a tenant is just going to claim hardship after the costs are certified.

IX. Calendar Items

April 22& 29, 2003 - NO MEETINGS

May 6, 2003

9 appeal considerations (1 cont. from 3/18/02)
6:30 Public Hearing: Residential Hotel Visitor Policy Ordinance

X. Adjournment

Commissioner Gruber adjourned the meeting at 7:10 p.m.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 6:00 p.m.,

May 6, 2003

25 Van Ness Avenue, #70, Lower Level

9-13-14

AGENDA

DOCUMENTS DEPT.

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

APR 29 2003

SAN FRANCISCO
PUBLIC LIBRARY

- V. Consideration of Appeals
 - A. 1439 Ocean Ave. #2
 - B. 1290 Grove St. #505
 - C. 959 Powell St.
 - D. 3649 Market St. #201
 - E. 60 Harriet St.

AT030011
(cont. from 3/18/03)

The tenant appeals the decision granting a rent increase based on Costa-Hawkins.

AT030042

The tenant appeals the remand decision granting a claim of decreased housing services due to the landlord's failure to consent to a replacement roommate.

AT030040 & -41

The tenants in two units appeal the decision certifying capital improvement costs.

AL030038

The landlord appeals the remand decision granting a claim of decreased housing services due to the landlord's failure to continue to allow three occupants in the unit.

AT030039

The subtenant appeals the decision denying his claim that he was charged more than a proportional share of the rent pursuant to Rules Section 6.15C(3).



F. 375 Douglass St.

AT030043

The tenant appeals the decision only partially granting a claim of unlawful rent increases.

G. 923 Eddy St. #107, 108 & 105

AL030044

The landlord appeals the decision granting rent reductions due to decreased housing services and ordering rent increases deferred because the landlord failed to perform requested repairs.

H. 223 Leavenworth #1

AL030046

The landlord appeals the decision determining that a rent increase is not warranted pursuant to Costa-Hawkins nor Rules Sections 1.21 or 6.14.

I. 1423 – 33rd Ave.

AT030047

The tenant, a non-profit social services provider, appeals the decision denying a claim of unlawful rent increase.

VI. Public Hearing

6:30 Residential Hotel Visitor Policy Ordinance

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252-4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, May 6, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBE
EXECUTIVE DIRECTOR

DOCUMENTS DEPT

MAY 16 2003

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Wasserman called the meeting to order at 6:08 p.m.

II. Roll Call

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Commissioners Present: Becker; Gruber; Mosbrucker; Mosser;
Murphy; Wasserman.
Commissioners not Present: Lightner.
Staff Present: Grubb; Wolf.

Commissioners Justman and Marshall appeared on the record at 6:14 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 15, 2003.
(Becker/Gruber: 4-0)

IV. Remarks from the Public

A. Robert Pender, Vice-President of the Parkmerced Residents' Organization (PRO), distributed copies of the Tenant Times newsletter. Mr. Pender informed the Board that on-going capital improvement hearings are occurring at the Rent Board, and that the tenants are "persevering."

B. Jeff Cluett, representing the landlord in the case at 923 Eddy St. (AL030044), concurred with the Administrative Law Judge that the Golden Gateway decision deals with repairs that were underway. However, Mr. Cluett maintained that his client has been attempting to effectuate repairs for almost two years, and has been delayed by the permit process through no fault of his own.

C. Anita Barnes, the tenant in the Costa-Hawkins case concerning 1439 Ocean Ave. #2 (AT030011), said that her lease and estoppel agreement say that she is under rent control. Since the Memorandum of the Senior Administrative Law Judge says that the law is ambiguous, Ms. Barnes feels that "it is only fair" that she retain her rent control protections. She also maintains that her landlord is "hassling" her.

D. Otto Chu, the landlord in the Ocean Ave. case, reminded the Board that Costa-Hawkins says that single family dwellings and condominiums are exempt from rent control if the tenancy commenced after 1996. Mr. Chu said that his 3-R report supports a single-family designation.



V. Consideration of Appeals

A. 1439 Ocean Ave. #2

AT030011
(cont. from 3/18/03)

The tenant's petition alleging an unlawful rent increase was denied because the Administrative Law Judge found that the tenant's unit is separately alienable from the title to any other dwelling unit and is therefore exempt pursuant to Costa-Hawkins. On appeal, the tenant maintains that: when she moved into the building the lower unit had been rented out, which gave her vested rights under rent control; the tenant's rights should not be affected by the landlord's having incorporated the residential space into another commercial unit; the Decision of the Administrative Law Judge establishes a dangerous precedent which allows landlords to remove rental units in order to exempt the premises from rent control; a contract cannot be changed unilaterally after the fact; there are factual errors in the decision; and the rent increase creates a hardship for the tenant. This case was continued from the meeting on March 18th in order to have the Administrative Law Judge research the legislative intent of Costa-Hawkins and attempt to ascertain whether these facts fall within the exemption of single family homes and condominiums mandated by the legislation.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to vacate the decision and find that the premises are not exempt from rent control for this tenant under the facts of this case. (Becker/Marshall: 5-0)

B. 1290 Grove St. #505

AT030042

The tenant's appeal was filed one day late because he went by the postmark date rather than the date of mailing on the Proof of Service.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 4-0)

The tenant's petition alleging a substantial decrease in housing services due to the landlord's failure to allow the tenant to sublet was granted, and the tenant was granted a 95% rent reduction for the pertinent period of time. The landlord's subsequent appeal was granted as to the amount of the rent reduction, which was reduced to 50%. The tenant appeals the remand decision, asserting that: the guidelines for partial sublets set forth in Rules Section 6.15C(3) should be used in determining the amount of the rent reduction; no findings of fact have changed since the issuance of the original Decision of Administrative Law Judge, which should be reinstated; and, since Section 6.15 does not apply to subletting of the whole unit, individuals with roommates may travel for employment or education, but persons living alone would not be entitled to a rent reduction.

MSC: To deny the appeal. (Gruber/Justman: 3-1; Becker dissenting)

C. 959 Powell St.

AT030040 & -41

The landlord's petition for certification of capital improvement costs to 8 of 12 units was granted, in part. The tenants in two units appeal the decision on the grounds that: the tank removal was necessitated by the landlord's deferred maintenance, which had resulted in a code violation; the tank removal constituted repair and not capital improvement; the tenants should not have to pay for the tank removal

because it is of benefit to the landlord and the general public; and the new 1-inch tubing benefits the tenants in unit #11 only, and that unit is not subject to the petition.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

D. 3649 Market #201

AL030038

The tenant's petition alleging decreased housing services due to the landlord's failure to allow two replacement roommates was granted and the landlord was found liable to the tenant in the amount of \$3,038.03. On appeal, the landlord contended that the tenant had not suffered a reduction in housing services because he was always allowed to replace one roommate. The landlord's appeal was accepted and the case was remanded to set aside the rent reduction granted for the period of time when the tenant believed he had been denied permission to obtain one replacement roommate, but to allow the rent reduction granted for the tenant only being allowed to have two occupants in the unit, rather than three. The landlord appeals the remand decision, asserting that: the tenant never had the right to sublet to two roommates, since he moved into the unit with his former wife, who cannot be considered a roommate; the landlord never promised that the unit could house more than two occupants, as provided for in the lease; the tenant failed to prove that the third occupant of the unit resided there for any appreciable period of time, nor that he paid rent; the tenant engaged in subterfuge and deception in order to obtain consent for the third roommate in the unit; the tenant's case was based on hearsay evidence; and no reduction in services has occurred, since the tenant admits that he has not procured even one replacement roommate.

MSC: To recuse Commissioners Becker and Mosbrucker from consideration of this appeal. (Marshall/Becker: 5-0)

MSC: To deny the appeal. (Marshall/Justman: 4-0)

E. 60 Harriet St.

AT030039

The subtenant's petition to determine whether the master tenant was charging more than the proportional share of the total rent paid to the landlords was denied because the Administrative Law Judge found that the additional housing services provided by the master tenant made up for the discrepancy between the subtenant's proportional share and the amount that he paid. The subtenant appeals, claiming that: the Administrative Law Judge exhibited gender bias in favor of the master tenant; the master tenant's bathroom was for her exclusive use; there are incorrect Findings of Fact in the decision; services allegedly provided by the master tenant were not provided; and the Administrative Law Judge violated the rules of evidence.

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

F. 375 Douglass St.

AT030043

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$29.58. However, oral notices of rent increase were determined to be valid, as were fireplace and repair fees collected annually since the inception of the tenancy. The tenant appeals, arguing that: the repair and fireplace fees were not part of the initial base rent, and constituted operating and maintenance expense increases that should have been subject to

approval by the Rent Board; the inclusion of the fireplace and repair fees would render otherwise "de minimus" overcharges null and void; oral notices of rent increase are null and void pursuant to Ordinance Section 37.3(b); and the amount collected by the landlord at the inception of the tenancy was impermissible under the Civil Code because of the inclusion of the repair and fireplace fees.

MSC: To deny the appeal. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

G. 923 Eddy St. #107, 108 & 105

AL030044

The landlord's appeal was filed one day late because of a clerical mistake on the part of landlord's counsel.

MSC: To find good cause for the late filing of the appeal. (Becker/Murphy: 5-0)

Two tenant petitions alleging decreased housing services and the landlord's failure to repair were granted, in part and the landlord was found liable to the tenants for rent reductions based on habitability defects on the premises. Annual rent increases were also ordered deferred until code violations are remedied. The landlord appeals the rent reductions ordered due to the decks being in disrepair, claiming that delays in the repairs being effectuated were beyond the landlord's control and caused by interference on the part of one of the tenants; the work on the decks is increasing, rather than decreasing, the tenants' housing services; and, pursuant to the Golden Gateway decision, mere inconvenience necessitated by repair that does not substantially interfere with the right to occupy the premises as a residence does not qualify for a reduction in rent.

MSF: To deny the appeal. (Becker/Marshall: 2-3; Gruber, Justman, Murphy dissenting)

MSC: To accept the appeal and remand the case for a hearing to take evidence as to whether the landlord performed the work in a reasonable and timely manner subsequent to the 2001 Notice of Violation. (Murphy/Gruber: 4-1; Becker dissenting)

H. 223 Leavenworth #1

AL030046

The landlord's petition seeking a rent increase pursuant to Rules Sections 1.21 or 6.14 or Costa-Hawkins was denied because the Administrative Law Judge found that the remaining occupant of the unit had a direct relationship with the landlord and therefore was a tenant rather than a subtenant or assignee. Additionally, a notice pursuant to Rules Section 6.14 was not served until two years after the landlord knew of the tenant's presence in the unit. On appeal, the landlord maintains that: the Administrative Law Judge did not take into account fraud committed by the tenant; the landlord was not informed of the subsequent occupant's presence in the unit; and a rent increase is warranted under Costa-Hawkins.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to vacate the decision and find that a rent increase is warranted pursuant to Costa-Hawkins under the facts of this case. (Murphy/Gruber: 3-2; Becker, Marshall dissenting)

I. 1423 – 33rd Ave.

AT030047

The tenant's petition alleging an unlawful rent increase from \$1,607.00 to \$2,400.00 per month was denied because the Administrative Law Judge found that the Progress Foundation, a non-profit corporation providing social services to severely mentally ill persons, does not meet the definition of "tenant" in the Ordinance. On appeal, the tenant argues that: the premises are under the jurisdiction of the Rent Ordinance because the Progress Foundation merely acts as a facilitator of their clients' occupancy of the premises for residential purposes; this case is distinguishable from a prior Rent Board case where the premises were used for temporary housing for corporate clients; the purpose of the Ordinance is served by protecting the Progress Foundation's clients; and the notice of rent increase is invalid since it applies to the Progress Foundation and "all other subsequent occupants."

MSC: To recuse Commissioner Becker from consideration of this appeal.
(Marshall/Becker: 5-0)

After discussion, it was the consensus of the Board to continue consideration of this appeal in order for the Deputy Director to attempt to facilitate settlement.

VI. Public Hearing

Residential Hotel Visitor Policy Ordinance

From 7:29 to 8:50 p.m., the Board convened a Public Hearing regarding implementation of the Uniform Visitor Policy for Residential Hotels. Twenty-one individuals spoke as follows below:

1. Tenant Charles Pitts informed the board that by enforcing the provisions of the Visitor Policy, hotel operators are opening themselves up to liability under Penal Code Section 602(n) regarding criminal trespass. Mr. Pitts feels that visitors should not be evicted after 9:00 p.m. and it is "unconscionable" that rent-paying tenants do not have rights.

2. Mission Hotel tenant Richard Nichols objects to having to sign up ahead of time for permission to have an overnight guest, since he does not know ahead of time if his date will be coming home with him. Mr. Nichols also finds it unfair that he can't have a visitor for more than one night in a row, and that he is limited to one visitor at a time.

3. Robert Pender of PRO read a letter that he wrote to Assemblywoman Jackie Spier, which he believes applies to SRO (Single Room Occupancy) hotel tenants. Mr. Pender feels that SRO tenants should have the same rights as regular tenants.

4. Hartland Hotel tenant Charles Abernathy says that his friends cannot visit him because they either don't have an ID or he hasn't given the hotel operator 24-hour notice. Mr. Abernathy doesn't think his overnight guests are any of the hotel operator's business.

5. Tenant Willie Trimble lives at the Veteran's Academy at the Presidio, which is run by Swords to Ploughshares. Mr. Trimble doesn't feel that Swords is following rules dictated by HUD, and wonders what the veterans who live there fought for.

6. Mission Hotel tenant Michael Taipale says the Visitor Policy Ordinance says that visitors can only be disallowed on the first of the month, and that 24-hour notice is "ridiculous." Mr. Taipale doesn't feel there is anything he can do about the restrictions, since Rent Board petitions can take "years."

7. Henry Karnilowicz is the Master Lessor of a residential hotel. Mr. Karnilowicz said that since each tenant is allowed 8 visitors per month, if there are two occupants in a room, there could be too many people in the hotel at one time. Mr. Karnilowicz suggested that the Ordinance should say 1 visitor per room, not per tenant. He explained that the requirement that ID's be left at the front desk is for security, so that operators know who is in the building, and when they have left.

8. Mission Hotel tenant Mark Friel is a Tenant Representative with the SRO Collaborative. He maintains that the hotel "disrespects the Visitor Policy" because notice of an overnight guest used to have to be given by 5:00 the same night, and now is required 24 hours in advance. You also can no longer have guests two nights in a row. Mr. Friel maintains that tenants should be able to use their 8 nights as they see fit.

9. Potter Hotel tenant Janet Smith says she is paying rent but living in an institutionalized setting. Ms. Smith says that tourists "wouldn't touch these hotels." She feels it is hypocritical that employees at the front desk often do not have US ID's, but they take ID's from visitors. Ms. Smith calls this a "prescription for identity theft."

10. Meredith Walters of the Central City SRO Collaborative says that they understand the tension between safety and security and visiting rights. The Collaborative suggests the following changes to the Uniform Visitor Policy: the Policy should be presented to each new tenant; any government-issued picture ID should be accepted; two visitors at a time should be allowed during daytime hours; overnight guests should be allowed on consecutive nights; the required posting of the law should be at least 11 inches wide and 17 inches tall; children should not count as visitors; tenants should be able to register overnight guests up until 9:00 p.m. on the night they wish to have the visitor; and desk clerks should not be allowed to hold visitors' ID's while they are in the building, but should be allowed to write down the numbers.

11. Seneca Hotel tenant and Mental Health Advocate Delphine Brody reported that the hotel accepts only California State ID's, and that drivers' licenses are not acceptable. This can mean that immigrants are not allowed to visit, so any government ID should be acceptable. Ms. Brody suggests that an appeals process should be available when there is a denial of visitation and no fees or penalties should be assessed while an appeal is pending, or while a petition is being processed at the Rent Board.

12. Tenant Rebecca Dorman says that while the Visitor Policy is supposed to be prominently posted, old policies are not taken down.

13. Sam Dodge of the SRO Collaborative presented a brief history of the genesis of the Uniform Visitor Policy, which started when the police identified charging visitor fees at front desks as hazardous, since undesirable elements could pay their way into the hotels. Supervisor Daly wished to address this problem, and the SRO Task Force was established in 1999. Meetings were held with the various stakeholders and an attempt was made to balance the competing interests. The

Ordinance provides an annual chance to identify loopholes. Mr. Dodge reported that the Ordinance has been largely successful in the elimination of visitor fees.

14. Jefferson Hotel tenant Prince Bush thanked the Commissioners for listening to the tenants' side. Mr. Bush said that the hotels don't go by the same rules their tenants have to live by, and they lose peoples' ID's. Mr. Bush feels that tenants should be able to bring some friends over to watch an NBA game and if the friends cause a problem, the tenant is liable and can be put out.

15. Amit Motawala, proprietor of the Prita and Amit Hotels, said that the police require valid ID's for entry. Security being an issue, operators need to take ID's in order to know if people have left the premises. Mr. Motawala doesn't think that a visitor who stays 8 nights with one resident should then be able to spend 8 nights with another tenant at the same hotel.

16. Tenant Dan Williams said that tenants should be able to treat their rooms as their homes. Mr. Williams feels that 2 tenants at a time is too restrictive, but that 3 is reasonable, as long as the tenant doesn't count. Tenants should be able to obtain permission for a visitor up until 9:00. Mr. Williams contended that when hotel operators could charge for visitors, they allowed unlimited amounts, and violated health and safety codes "with impunity."

17. Paul Hogarth of the Tenderloin Housing Clinic said that prior to the adoption of the Visitor Policy, tenants had no rights. Mr. Hogarth believes that, when implemented properly, the Policy can aid in management of the building. Enforcement, however, is a problem. Since operators won't issue receipts when they charge for visitors, it is better for tenants to call the police. Mr. Hogarth contended that tenants have a responsibility when they bring in visitors, and can have their visitation rights suspended. He suggested that landlords should have to have Just Cause to deny visitors.

18. Ken Patel, proprietor of the Aranda Hotel, said that if they cannot retain a visitor's ID, they wouldn't be able to keep track of peoples' comings and goings. Mr. Patel agreed that any picture ID should be acceptable.

19. Summer Desai, operator of the Adrian Hotel, said that they are following the Visitor Policy, and that the Visitor Log is larger than the Rent Log. Mr. Desai maintained that it is hard to screen visitors, and that too many visitors over-utilize the bathrooms in the mornings when tenants need to get ready for work.

20. Sam Patel, President of the Independent Hotel Owners and Operators Association, is also on the SRO Task Force. Mr. Patel explained that the Visitor Policy was developed over four months, which was an insufficient amount of time. Mr. Patel clarified that he is the owner of the Mission Hotel, the Tenderloin Housing Clinic is the master lessor, and City Housing is the operator. Mr. Patel said that his association would be happy to work on formulating a policy that "works for everyone."

21. Earl Brown of the Central City Housing Collaborative said that City Housing has been unwilling to negotiate, but they are not the only ones getting complaints. Mr. Brown believes that the 24-hour notice requirement is the biggest problem; that all photo ID's should be acceptable; and that residents should be allowed to have two visitors at a time. Mr. Brown suggests that, rather than holding ID's, make tenants sign in and out with their guests and suspend their visitation rights

if there is a problem. Mr. Brown also said that organizers are more welcomed in non-profit buildings, so the tenants in those buildings are better organized.

Upon the conclusion of the Public Hearing, the Executive Director informed the Board that the Director of St. Peter's Housing Committee reported that they had not received notice of the Public Hearing, and had individuals who wished to testify. The Public Hearing was therefore continued to the meeting on May 20th.

VII. Communications

The Commissioners received a copy of the Order in the case of Cwynar v. City and County of San Francisco, along with an article from the San Francisco Chronicle regarding the case.

VIII. Director's Report

Executive Director Grubb reported that Deputy City Attorney Marie Blits informed him that the idea of "Floating Alternates" for Commissioners would not create a seriatum meeting problem, since only two Commissioners would be able to vote. Mr. Grubb will ask the Office of the City Attorney to draft such legislation to take to the Board of Supervisors. Additionally, the Ordinance that authorizes a 50-50 split of any increased water bills related to the renovation of Hetch-Hetchy (Proposition A) passed at the Board of Supervisors.

IX. Calendar Items

May 13, 2003 - NO MEETING

May 20, 2003

- 7:00 10 appeal considerations (1 cont. from 4/15/03)
Continued Public Hearing: Residential Hotel Visitor Policy Ordinance

X. Adjournment

President Wasserman adjourned the meeting at 9:28 p.m.

City and County of San Francisco



**Residential Rent Stabilization
and Arbitration Board**

WILLIE L. BROWN, JR.
MAYOR

April 9, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

NOTICE OF PUBLIC HEARING

DATE:	May 6, 2003
TIME:	6:30 P.M.
PLACE:	25 VAN NESS AVENUE (AT MARKET ST.) SUITE 70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON THE IMPLEMENTATION OF THE UNIFORM VISITOR POLICY PURSUANT TO SECTION 41D.6 OF THE ADMINISTRATIVE CODE. INTERESTED PARTIES ARE INVITED TO COMMENT ON THE POLICY AND/OR PROPOSE AMENDMENTS THAT WOULD HELP EFFECTUATE THE GOALS AND REQUIREMENTS OF THIS CHAPTER.

SPEAKERS WILL HAVE THREE (3) MINUTES EACH TO COMMENT ON THE POLICY. COMMENTS MAY ALSO BE MAILED AND SHOULD BE RECEIVED AT THE RENT BOARD NO LATER THAN APRIL 28, 2003, SO THAT THEY CAN BE MAILED AND RECEIVED BY THE COMMISSIONERS PRIOR TO THE HEARING. COMMENTS ARRIVING AFTER THIS TIME MAY NOT BE RECEIVED IN TIME TO BE ADEQUATELY CONSIDERED.

DOCUMENTS DEPT.

APR 15 2003

SAN FRANCISCO
PUBLIC LIBRARY



City and County of San Francisco



Residential Rent Stabilization
and Arbitration Board

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN

PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,

May 20, 2003

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

DOCUMENTS DEPT.

MAY 16 2003

SAN FRANCISCO
PUBLIC LIBRARY

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 66 Hazelwood Ave.

AT030035
(cont. from 4/15/03)

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship five years after the decision was issued.

B. 100 Font Blvd. #4A

AT030048

The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

C. 1249 – 17th Ave.

AT030062

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

D. 466 Frederick #4

AT030049

One tenant appeals the decision certifying capital improvement costs.

E. 63 Pond St.

AL030050 & AT030051

The landlord and tenant appeal the decision certifying capital improvement costs.

F. 2526 Van Ness Ave.

AL030053



The landlord appeals the denial of his petition for rent increases based on increased operating expenses.

G. 8021 Geary Blvd. AL030054

The landlord appeals the decision granting a claim of unlawful rent increases.

H. 1077-81 Ashbury/1038-60 Clayton AL030055 &
AT030056 & -57

The landlord appeals the decision partially granting certifying capital improvement costs. Two tenants appeal the decision on the grounds of financial hardship.

I. 12 Leona Terr. AL030058

The landlord appeals the decision granting rent reductions due to decreased housing services.

J. 665 Pine St. #304, 704 & 804 AT030059-61

Three tenants appeal the decision granting certification of capital improvement costs.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

15. Deferred Compensation Manager Report

- ◆ Enrollment Activity Report for the Month of March and April
- ◆ June Statement Stuffer - ING System Log-on Procedures
- ◆ Letter From ING Regarding Fixed Rate Account Rates

Discussion Only:

CITY ATTORNEY'S REPORT

16. City Attorney's Report

- ◆ Discussion regarding on Senate Bill 766 regarding proposed changes to State Corporate Securities Law.
- ◆ Sunshine and 700 Rules for Officials

Action:

CLOSED SESSION

17. Pursuant to the Ralph M. Brown Act, Government Code Section 54956.9 and the Sunshine Act, San Francisco Administrative Code Section 67.10, the Retirement Board will meet in closed session.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
as Possible Defendant and/or Plaintiff
Government Code §54956.9(b)(1); S.F. Administrative Code §67.11
(Two Cases)

18. Board Member's Report

Discussion Only:

19. Adjournment

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71-Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
May 20, 2003

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

MAY 20 2003

AMENDED AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

SAN FRANCISCO
PUBLIC LIBRARY

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 66 Hazelwood Ave. AT030035
(cont. from 4/15/03)

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship five years after the decision was issued.

B. 100 Font Blvd. #4A AT030048

The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

C. 1249 – 17th Ave. AT030062

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

D. 466 Frederick #4 AT030049

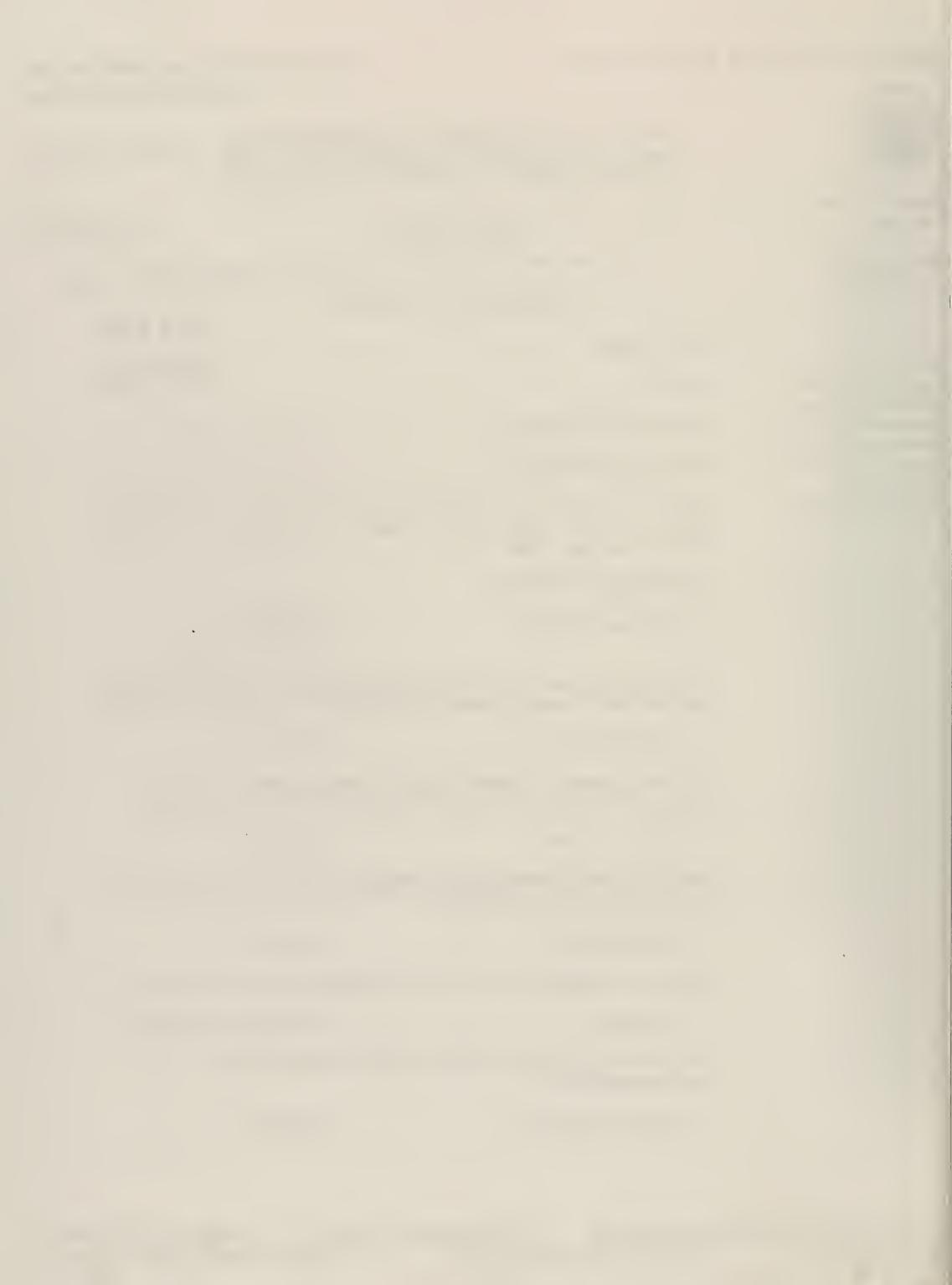
One tenant appeals the decision certifying capital improvement costs.

E. 63 Pond St. AL030050 & AT030051

The landlord and tenant appeal the decision certifying capital improvement costs.

F. 2526 Van Ness Ave. AL030053





The landlord appeals the denial of his petition for rent increases based on increased operating expenses.

G. 8021 Geary Blvd. AL030054

The landlord appeals the decision granting a claim of unlawful rent increases.

H. 1077-81 Ashbury/1038-60 Clayton AL030055 &
AT030056 & -57

The landlord appeals the decision partially certifying capital improvement costs. Two tenants appeal the decision on the grounds of financial hardship.

I. 12 Leona Terr. AL030058

The landlord appeals the decision granting rent reductions due to decreased housing services.

J. 665 Pine St. #304, 704 & 804 AT030059-61

Three tenants appeal the decision granting certification of capital improvement costs.

VI. Continued Public Hearing

7:00 Residential Hotel Visitor Policy Ordinance

VII. Communications

VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment



**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,** WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, May 20, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:14 p.m.

II. Roll Call

Commissioners Present:	Becker; Gruber; Marshall; Mosbrucker; Murphy; Wasserman.
Commissioners not Present:	Lightner; Mosser.
Staff Present:	Grubb; Wolf.

Commissioner Justman appeared on the record at 6:26 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 6, 2003 with a correction to indicate that it is Senator, and not Assemblywoman, Jackie Spier. (Gruber/Murphy: 5-0)

IV. Remarks from the Public

A. Landlord Ben Herman of 2124 Hyde St. said that an agreement had been reached in that case, but the tenant was now being allowed to re-open it. Mr. Herman asked that the Commissioners instruct staff not to allow parties to re-open cases and to act even-handedly towards landlords.

B. Robert Pender, Vice-President of the Parkmerced Residents' Organization (PRO), read a letter that he wrote to Senator Jackie Spier outlining the history of Parkmerced and the housing crisis in San Francisco, and asking for her assistance in amending Costa-Hawkins.

C. Tenant Christian Lackner of 2526 Van Ness Ave. (AL030053) told the Board that his landlord is asking for the tenants to pay \$2,000 per month so that he can manage his mother's other buildings. There was no heat in the building for six months, but the landlord has his own source of heat. A resident manager is unnecessary in this 12-unit building, nor is the landlord credentialed. Mr. Lackner asked that the Board affirm the Administrative Law Judge's decision.

D. Bill Luque, representing the landlord at 12 Leona Terrace (AL030058), and tenant Susan Angst informed the Board that they have reached a settlement.

V. Consideration of Appeals



A. 66 Hazelwood Ave.

AT030035
(cont. from 4/15/03)

The tenant's hardship appeal of a capital improvement decision was filed almost five years late because the tenant alleged he did not receive a copy of the decision, and therefore did not know of his right to appeal on the basis of financial hardship.

MSC: To accept the appeal and remand the case for a hearing to determine whether there was good cause for the late filing of the appeal. If good cause is found, then a hearing will commence on the tenant's claim of prospective financial hardship.
(Becker/Marshall: 3-2; Gruber, Murphy dissenting)

B. 100 Font Blvd. #4A

AT030048

The tenant's appeal was filed six months late because the tenant claims not to have received the Decision of the Administrative Law Judge in the mail.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The landlord's petition for rent increases based on increased operating expenses was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship.
(Becker/Marshall: 4-1; Gruber dissenting)

C. 1249 – 17th Ave.

AT030062

The landlord's petition for certification of capital improvement costs to one of two units was granted. The tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship.
(Becker/Justman: 4-1; Gruber dissenting)

D. 466 Frederick #4

AT030049

The landlord's petition for certification of capital improvement costs to 3 of 6 units was granted, in part, resulting in \$78.33 monthly passthroughs. One tenant appeals the decision, claiming that: the landlord misrepresented facts about ownership of the building, and failed to prove that the actual landlords of the building incurred all of the capital improvement costs; the landlord and his representative perjured themselves at the hearing; the Administrative Law Judge failed to consider all of the tenant's objections, including that the new fence was unnecessary; the landlord engaged in unfair business practices, including the eviction of low-paying tenants; the kitchen ceiling in her unit still leaked after the roof work was done; receipts were submitted with no names on them; the costs were not allocated fairly; some of the deferred maintenance necessitating the work was the responsibility of the current landlords; the burden of proof was improperly placed on the tenants; tenants were prejudiced

by the landlord's post-hearing submissions; and the Administrative Law Judge exhibited bias against the tenants.

MSC: To recuse Commissioner Becker from consideration of this appeal.
(Marshall/Justman: 5-0)

MSC: To recuse Commissioner Gruber from consideration of this appeal.
(Gruber/Justman: 4-0)

MSC: To deny the appeal. (Murphy/Justman: 4-0)

E. 63 Pond St.

AL030050 & AT030051

The landlord's petition for certification of the costs of restoration of the exterior of the building was granted, in part, resulting in a total passthrough in the amount of \$651.43. In addition, rent overpayments in the amount of \$4,018.84 were determined to be owing from the landlord to the tenant. On appeal, the landlord claims that: he should be entitled to the actual rate of interest he incurred on his equity line of credit, rather than the imputed rate of interest; and the 1994 rent increase should not be null and void because \$25 of it resulted from the provision of laundry services, and no rent increase had been given the previous year. The tenant also appeals, claiming that: much of the exterior renovation work did not need to be done; the doors and windows did not need to be replaced; and the tenant's rent was increased due to capital improvements prior to the passage of Proposition I and the property coming under rent control.

MSC: To deny the landlord's appeal. (Marshall/Becker: 5-0)

MSC: To deny the tenant's appeal. (Murphy/Gruber: 5-0)

F. 2526 Van Ness Ave.

AL030053

The landlord's petition for rent increases based on increased operating expenses was denied. The basis for the increases was the landlord's son's provision of management services to the building, for which he receives a free apartment and \$500 in monthly salary. The Administrative Law Judge found that the landlord failed to prove that the costs were reasonable. On appeal, the landlord's representative claims that: his managerial duties are greater from those enumerated by the Administrative Law Judge in the decision; he and his mother have an oral agreement for his provision of management services to the building; and his management of other buildings owned by his mother is kept separate from the compensation he receives for managing this property.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

G. 8021 Geary Blvd.

AL030054

The tenants' petition alleging unlawful rent increases was granted and the landlords were found liable to the tenants for rent overpayments in the amounts of \$6,900.00 and \$4,140.00 respectively. On appeal, the landlord argues that: the landlords were unaware of the applicability of rent control to the subject premises, nor of their rights as Prop. I landlords; the landlord should be given credit for allowable banked increases; and the landlords should be given credit for capital improvements performed more than five years ago.

MSC: To deny the appeal. (Becker/Justman: 5-0)

H. 1077-81 Ashbury/1038-60 Clayton AL030055 & AT030056 & -57

The landlords' petition for certification of capital improvement costs to 3 of 11 units was granted, in part. The landlord appeals certain portions of the decision, arguing that: the costs of the new low-flow toilets should have been certified because wasteful usage of water constitutes "excessive maintenance costs"; 10% interest should be granted on the entire \$50,000 borrowed to perform the seismic work, even though the funds were not yet borrowed at the time the work was paid for, because the terms of the loan required that the money be spent before the proceeds could be drawn; and amending the petition by adding additional costs should not have changed the imputed interest rate used for costs contained in the original filing. Two tenants also appeal the decision on the grounds of financial hardship.

MSC: To deny the landlord's appeal but to accept the appeals of the tenants in unit #1077-C and 1081-D and remand the case for a hearing on the tenants' claims of financial hardship.
(Justman/Becker: 4-1; Gruber dissenting)

I. 12 Leona Terr. AL030058

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$4,800 due to inadequate heat, mold and peeling lead-based paint in the unit. On appeal, the landlord claims that: the tenant does not care about the conditions in the unit, but just wants her rent reduced; the tenant manipulated the evidence to make the situation look worse than it is; and the tenant has not cooperated in the landlord's attempts to get repairs effectuated.

Per the statement of the tenant and the landlord's representative during the "Remarks from the Public" portion of the Agenda, this case has been settled. The appeal will, however, be continued pending submission of withdrawals of the tenant's petition and landlord's appeal.

J. 665 Pine St. #304, 704 & 804 AT030059-61

The landlord's petition for certification of exterior paint and waterproofing costs to 31 of 40 units was granted. Three tenants appeal the decision, claiming that the waterproofing work was faulty because the ceiling and newly installed windows on the south side of the building are leaking.

MSC: To deny the appeals without prejudice to the tenants filing petitions alleging substantial decreases in housing services, if appropriate.
(Murphy/Gruber: 3-2; Becker, Marshall dissenting)

VI. Continued Public Hearing

From 7:45 to 8:19 p.m., the Board continued the Public Hearing commenced on May 6th regarding implementation of the Uniform Visitor Policy for Residential Hotels. Seven individuals testified as follows below:

1. Tenant Aurora Grajeda of the Mission Hotel questioned the purpose of having to give 24-hour notice prior to receiving guests, since she is responsible for anything that her guests do in the building. She feels that this requirement is unreasonable since "things don't always work out the way you planned," and that it is "embarrassing" for visitors to have to leave at 9:00 p.m.
2. Robert Pender of PRO said that when he first moved to San Francisco, he lived in an SRO above the Stockton Tunnel with his wife and children. He and his family were allowed to have visitors whenever they wanted and, although this was over 30 years ago, he doesn't see any legitimate need for restrictions.
3. Tenant Delphine Brody of the Seneca Hotel said that visitor issues are very serious, especially for seniors and the disabled, since "folks are dying of loneliness." Ms. Brody feels that "in and outs" should be permitted throughout the night, and that front desk staff should call up to the rooms to notify tenants when they have visitors.
4. Tenant Valerie Capchart of the Mission Hotel has been living in and out of SRO's for more than 10 years. Ms. Capchart said that living in an SRO shouldn't be like living in prison, and residents deserve to be treated better than criminals.
5. Herman Taft, Jr., Manager of the Jefferson Hotel and employee of City Housing, said that 24-hour notice is necessary to check people against the "86'ed" list. However, Mr. Taft announced that a new policy requiring that notice be given by noon the same day would be taking effect on July 1st. Mr. Taft explained that there are only 11 toilets for 101 units in the building, and that the facilities would be overloaded if everyone brought in 2-3 people at a time. "In and outs" are necessary to keep the noise down, and staff will call up to the rooms, just not after visiting hours. Mr. Taft said, "accommodations can be made" with advance notice, but expressed a concern about fair housing violations because "if you do it for one, you have to do it for everyone."
6. Tenant Rebecca Dorman of the Mentone Hotel said that 24-hour notice isn't part of the Uniform Visitor Policy but, rather, is City Housing's policy. She stated that ID's get lost more in private hotels, and that she is more concerned about "responsible handling" than keeping of the ID's.
7. Meredith Walters of the Central City SRO Collaborative is pleased that City Housing is now negotiating, but that the "loopholes" should be cut out for everyone else. She suggested that a fine should be collected to make the hotel culpable if they lose an ID.
8. Delphine Brody told of a desk clerk who gave someone another person's ID. She thinks it should be sufficient to just copy down the number, and that keeping such strict tabs on folks constitutes the "criminalization" of SRO tenants.
9. Valerie Capchart said that a father asked for an exception to the overnight rule for his son. The desk clerks said ok, but the manager said no. Therefore, Ms. Capchart doesn't think that "special accommodations" always work.
10. Aurora Grajeda asked, "Who's going to guard the guards?" since managers aren't always available. Ms. Grajeda said that each hotel is different, and they should be more homogeneous. While Ms. Grajeda feels that residents are being treated like children, she understands security concerns, and suggests a "common sense" approach where "the rules serve the people."

Because of a calendaring error on the part of a staff member at the SRO Collaborative, several members of the public who wished to testify were unable to do so. Therefore, the Public Hearing was again continued to the June 3rd meeting at 7:00 p.m.

VII. Communications

In addition to correspondence concerning cases on the calendar, the Board received the monthly workload statistics for April, 2003.

VIII. Director's Report

Executive Director Grubb informed the Commissioners that the departmental budget has had one hearing before the Budget Committee and will have a final hearing next Wednesday.

IX. Calendar Items

May 27, 2003 - NO MEETING

June 3, 2003

- 11 appeal considerations (1 cont. from 5/6/03)
7:00 Continued Public Hearing: Residential Hotel Visitor Policy Ordinance

X. Adjournment

President Wasserman adjourned the meeting at 8:29 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

“Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City’s efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.”

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

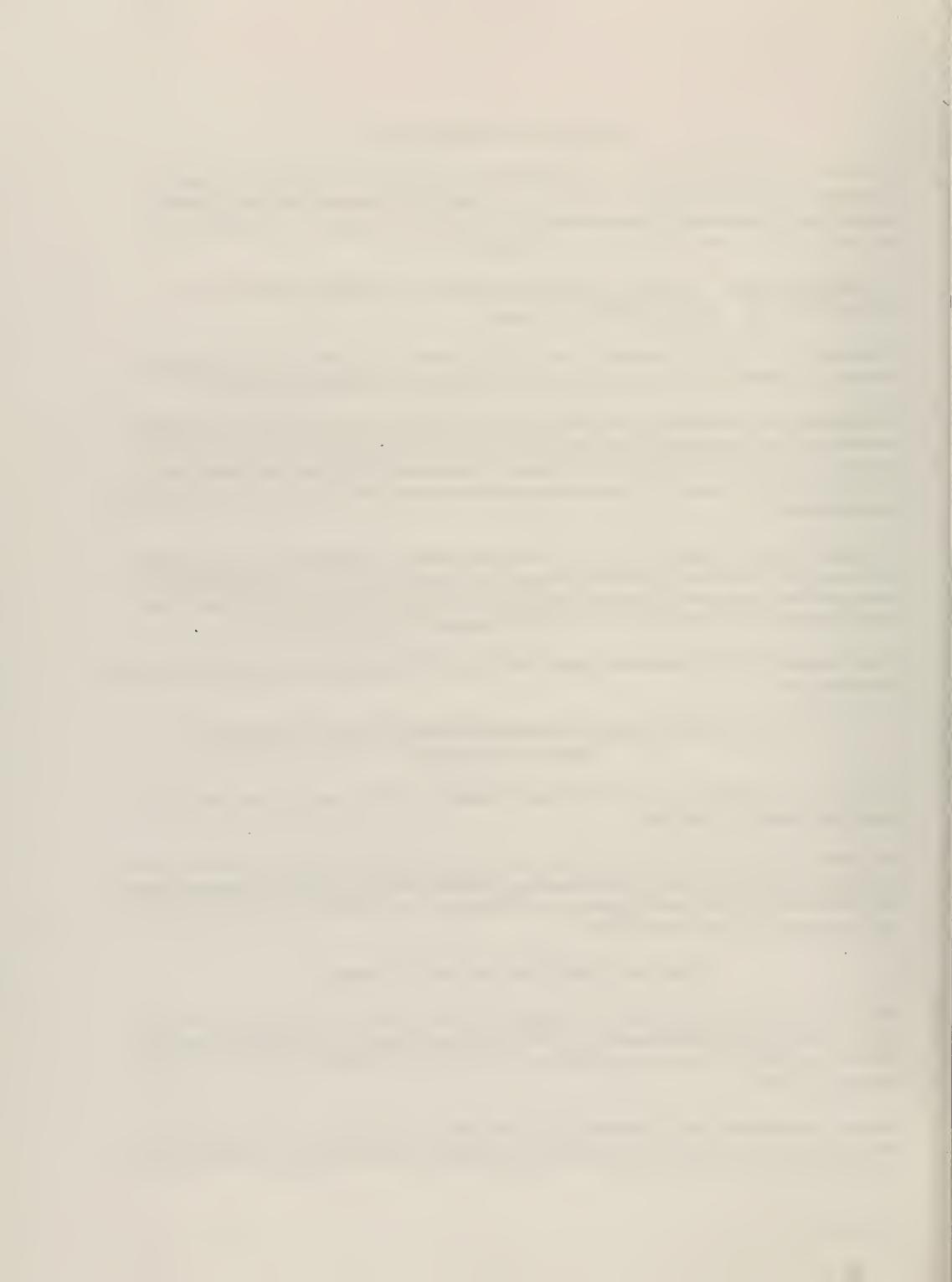
The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.



CITY AND COUNTY OF SAN FRANCISCO



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
June 3, 2003

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

- | | | |
|---------------|------------------|-------------|
| KHIN MAI AUNG | I. Call to Order | MAY 30 2003 |
|---------------|------------------|-------------|

- | | | |
|--------------------|---------------|---------------|
| LARRY BEACH BECKER | II. Roll Call | SAN FRANCISCO |
|--------------------|---------------|---------------|

- | | | |
|---------------------|--|----------------|
| DAVID GUSTAV GRUBER | | PUBLIC LIBRARY |
|---------------------|--|----------------|

The tenant appeals the decision partially granting a claim of decreased housing services.

G. 145 Gonzalez Dr. AT030064

The tenants appeal the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

H. 3940 – 20th St. AL030070

The landlord appeals the decision granting a claim of unlawful rent increases.

I. 7 – 9th Ave. AT030071

The tenants appeal the decision certifying capital improvement costs.

J. 1215 Laguna #301 AT030065

The tenant appeals the decision granting rent increases based on increased operating expenses.

K. 2809 Steiner St. #2 AL030072

The landlord appeals the decision partially granting claims of decreased housing services.

VI. Continued Public Hearing

7:00 Residential Hotel Visitor Policy Ordinance

VII. Communications

VIII. Director's Report

IX. Old Business

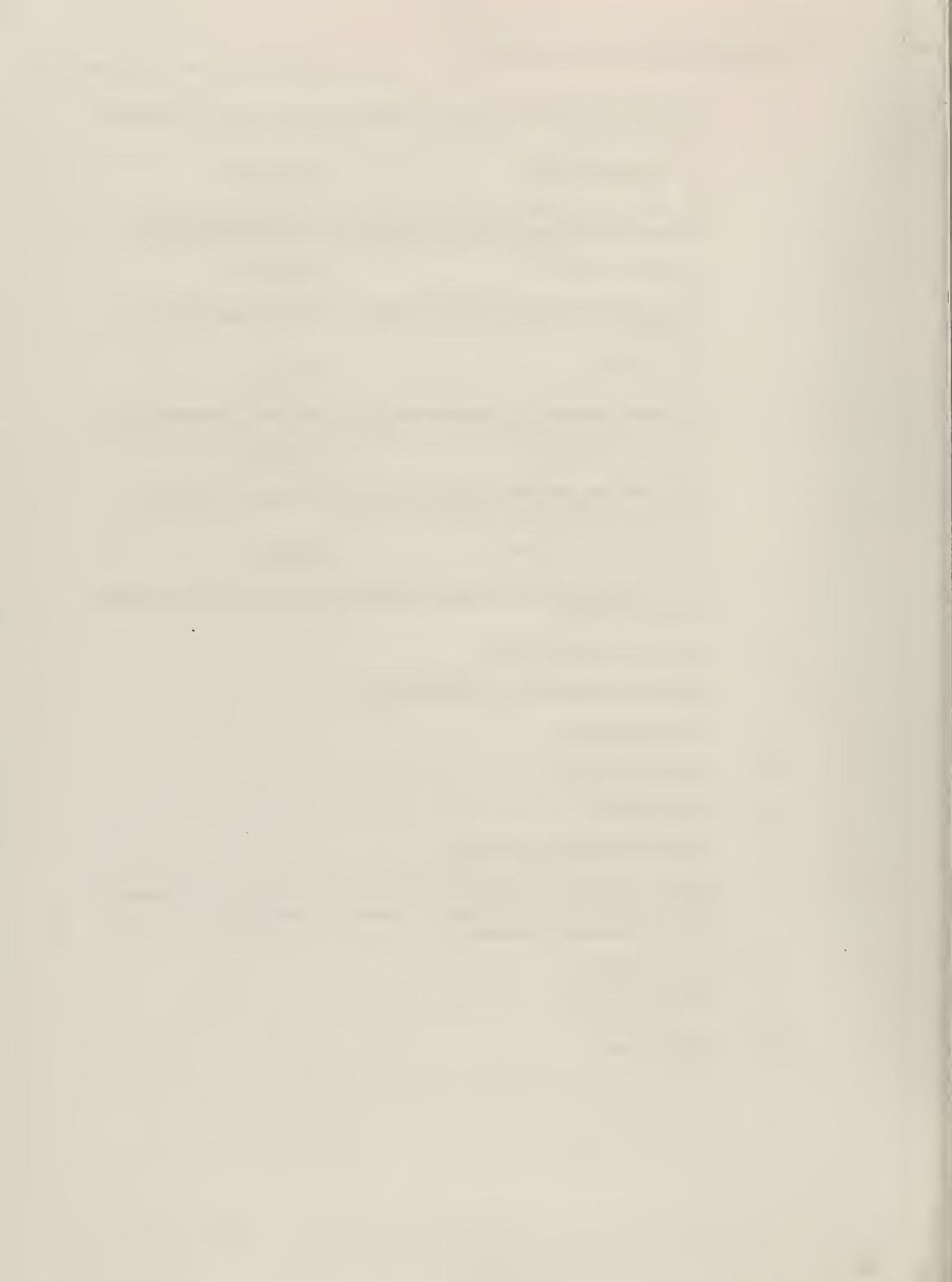
IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment



City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, June 3, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

JUN 16 2003

SAN FRANCISCO
PUBLIC LIBRARY

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

I. Call to Order

President Wasserman called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Gruber; Lightner; Marshall; Mosbrucker;
Wasserman.

Commissioners not Present: Mosser; Murphy.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:28 p.m.; Commissioner Becker arrived at 6:50. Commissioners Lightner and Justman went off the record at 7:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 20, 2003.
(Gruber/Mosbrucker: 5-0)

IV. Remarks from the Public

A. Robert Pender, Vice-President of the Parkmerced Tenants' Association (PRO), asked that the record reflect the correct spelling of State Senator Jackie Speier's name, and passed out copies of the Tenant Times. Mr. Pender informed the Board that 37 garden court capital improvement cases were cancelled by Rent Board staff at the last moment, which Mr. Pender considers "unfair tactics."

B. Helen Young, landlord in the case at 7 – 9th Ave. (AT030071), said that the tenant is appealing the decision certifying capital improvement costs and asked that the decision be affirmed. Ms. Young said that she replaced the windows every time the tenant asked, always within 90 days.

C. Robert Sigmund, representing the landlord at 561 Baker (AT030067), informed the Board that the tenant has vacated the unit, although retroactive amounts are owing to the landlord.

D. Jose Morales, representing the tenant at 1026 Shotwell (AT030069), said that the landlord, who is a "slumlord", has abused the tenant. He told the Board that the tenant was without a refrigerator for over a year, and asked the Board to order the landlord to provide a comparable replacement appliance.



E. Landlord Lucy Wong of 1026 Shotwell said that the refrigerator was not new, but was verified as being in working condition by the building inspectors. Ms. Wong said that the landlords would pay the \$1,600 ordered by the Administrative Law Judge, but that "the tenant is still not happy."

F. Landlord Dee El Malik of 2809 Steiner St. (AL030072) said that she has documents and cancelled checks to show that the problems have been taken care of, and that the tenant has a history of making false claims.

G. Tenant Greg Roberts of 3940 – 20th St. (AL030070) just wanted to make sure that the Commissioners had received everything he had submitted in response to the landlord's appeal.

H. Landlord Regan Wong of 1026 Shotwell wanted to show the Commissioners pictures of the refrigerator in question and was informed that this was not appropriate. Mr. Wong said that there is a working refrigerator on the premises and "the complaint's not right."

I. A tenant who lives at the Royan Hotel complained that tenants are now supposed to pay their rent by money order, which is very inconvenient.

V. Consideration of Appeals

A. 1423 – 33rd Ave.

AT030047
(cont. from 5/6/03)

The tenant's petition alleging an unlawful rent increase from \$1,607.00 to \$2,400.00 per month was denied because the Administrative Law Judge found that the Progress Foundation, a non-profit corporation providing social services to severely mentally ill persons, does not meet the definition of "tenant" in the Ordinance. On appeal, the tenant argues that: the premises are under the jurisdiction of the Rent Ordinance because the Progress Foundation merely acts as a facilitator of their clients' occupancy of the premises for residential purposes; this case is distinguishable from a prior Rent Board case where the premises were used for temporary housing for corporate clients; the purpose of the Ordinance is served by protecting the Progress Foundation's clients; and the notice of rent increase is invalid since it applies to the Progress Foundation and "all other subsequent occupants."

After discussion, the Board continued consideration of this appeal in order for the Deputy Director to attempt to facilitate settlement. A Settlement Agreement and Stipulation was subsequently received from the parties.

MSC: To affirm the Decision of the Administrative Law Judge based on the Stipulation of the parties. (Lightner/Gruber: 4-1;
Marshall dissenting)

B. 434 Arballo Dr.

AT030063

The tenant's appeal was filed six and one-half months late because the tenant was taking care of an ill parent and did not realize that her rent would be going up until she received her lease renewal.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Justman: 3-2; Gruber, Lightner dissenting)

The landlord's petition for rent increases based on increased operating expenses was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Mosbrucker: 4-1; Gruber dissenting)

C. 2355 Francisco St. #5

AL030066

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$944.00. An annual rent increase was also ordered deferred due to the landlord's failure to repair and rent overpayments were determined to be owing from the landlord to the tenant in the amount of \$1,663.32. On appeal, the landlord provides evidence that the time period granted for the lack of heat is excessive because repairs were effectuated promptly upon the landlord receiving notice of the problem.

MSC: To deny the appeal. (Marshall/Becker: 4-1; Lightner dissenting)

D. 3655 Vicente #2

AT030068

The landlord's petition for certification of capital improvement costs to 6 of 8 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

E. 561 Baker #11

AT030067

The landlord's petition for certification of capital improvement costs to 3 of 11 units was granted, resulting in a total passthrough in the amount of \$298.65. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

F. 1026 Shotwell, Apt. A

AT030069

The tenant's petition alleging a substantial decrease in services without a corresponding reduction in rent was granted in part and denied in part. The landlord was found liable to the tenant in the amount of \$1,600 for a period of time when the tenant's refrigerator was inoperable, but no liability was found after the date the landlord offered the tenant a used replacement refrigerator. The tenant appeals the decision, claiming that the Administrative Law Judge should have ordered the landlord to replace the defective refrigerator with a comparable, clean, operable refrigerator and the rent reduction should stay in effect until such time as that occurs.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Becker: 5-0)

MSC: To deny the appeal. (Mosbrucker/Lightner: 5-0)

G. 145 Gonzalez Dr.

AT030064

The tenants' appeal was filed over six months late because at the time the Decision was issued, the tenants were assuming the lease from their mother, did not realize the repercussions of the rent increase and assumed that a joint appeal filed by the tenants' organization would cover all tenants with hardships.

MSC: To find good cause for the late filing of the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

The landlord's petition for rent increases based on increased operating expenses was granted. Two tenants in one unit appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Becker/Marshall: 4-1; Gruber dissenting)

H. 3940 – 20th St.

AL030070

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$6,006.88. On appeal, the landlord claims that he should have been given credit for banked rent increases in the overpayment calculations and that the rent increases were given in good faith.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

I. 7 – 9th Ave.

AT030071

The landlords' petition for certification of capital improvement costs to one unit was granted, resulting in a monthly passthrough in the amount of \$41.58. The tenants appeal, maintaining that: the decision is incorrect in finding that the tenants failed to notify the landlords that the bedroom window had come off its hinges; and replacement of the windows was necessitated by the landlords' deferred maintenance because if the landlords had made timely repairs, replacement of the windows would not have been necessary.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Becker: 5-0)

MSC: To deny the appeal. (Lightner/Gruber: 4-1; Mosbrucker dissenting)

J. 1215 Laguna #301

AT030065

The landlords' petition for 7% base rent increases to 20 out of 37 units based on increased operating expenses was granted. One tenant appeals the decision, alleging that the decision is a forgery.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

K. 2809 Steiner St. #2

AL030072

The landlord's appeal was filed 16 days late because the landlord has been experiencing stress, as verified by her doctor.

MSC: To find good cause for the late filing of the appeal.
(Lightner/Gruber: 5-0)

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,285.48. On appeal, the landlord provides evidence to show that: the refrigerator was checked and found to be functioning adequately; and the loose brick in the fireplace was repaired, as were the garbage room light, garbage room doorknob, and inoperative windows.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

VI. Continued Public Hearing

Residential Hotel Visitor Policy Ordinance

From 7:20 to 8:38 p.m. the Board continued the Public Hearing commenced on May 6th regarding implementation of the Uniform Visitor Policy for Residential Hotels. Twenty-two individuals testified as follows below:

1. Richard Marquez of Mission Agenda and the SRO Collaborative asked who has the power to re-write and enforce the Ordinance, since multiple violations of the Ordinance are occurring. Mr. Marquez said that hotels are denying visitors on the 1st, 15th and 30th of the month, and that even prison inmates are not denied visitors on those days. He also said that health care aides are being considered visitors and he believes that there are "racial and class dynamics to how the policy's being applied."
2. Nick Pagoulatos of St. Peter's Housing Committee and the SRO Collaborative asked what the process and timelines are going to be for the Board to address possible amendments to the Visitor Policy.
3. Tenant Rick Nicholls said that he is "putting his life together" so that he will be able to move. Mr. Nicholls said that his girlfriend had to leave one night at 9:00 p.m. and that it is "too tacky" to ask someone if they are going to sleep with him the next night. He also said that ID's are sold for identity theft purposes.
4. Tenant Anup Desai suggested the following revisions to the Visitor Policy: there should be different policies for daily, weekly and monthly tenants; childcare workers should be exempt; the 8 visitors per month limitation should be abolished; tenants should be able to have a party; 24-hour notice should be eliminated; ID cards should be returned; visitors shouldn't be disallowed on the 1st and 15th of the month; and the Visitor Policy should be prominently displayed.
5. Tenant David Lopez said that hotel managers don't respect the Visitor Policy or San Francisco, and that this affects the whole community because people do "wrong things" because of the way they're treated. Mr. Lopez believes that most people don't know about the Ordinance.
6. Tenant Charles Pitts said that the Visitor Policy violates Section 602(n) of the Penal Code, and that it is illegal to kick people out under this Section. In tourist hotels, residents can bring in whomever they want whenever they want. Mr. Pitts

asked what recourse tenants have if the hotel staff loses their ID's, and said that the hotels are taking short cuts and not hiring the proper staff.

7. James Collins of Mission Agenda and 6th Street Agenda said that under the "write-up system", a tenant with more than 3 write-ups could have restrictions placed on visitation. Mr. Collins thinks that tenants are so happy to get out of a shelter and into stable housing that they will sign anything. At the Plaza Hotel, Mr. Collins used to have to escort his guests to the bathroom. Mr. Collins maintains that tenants "are not in prison", and should be given more freedom.

8. Roger Cooper of Mission Agenda said that he has a broken window because of a burglar and can hear gunshots, which is scary. The old owner put in a window that didn't fit. He lives at the Arata Hotel where there are vermin, and he has seen a possum "as big as a pregnant cat."

9. Tenant Arthur Brown is "appalled" that there are so many rules about visitors, and feels that his parents should be able to stay with him when they come to visit. People should be able to show their ID, but not have to leave it.

10. Tenant Wanda Johnson said that her daughter is considered a visitor, and is not allowed entry on the 15th of the month. She told the Board, "work with us, and we'll work with you."

11. Tenant Rosalind Orcutt lives at the Apollo Hotel, which is managed by Caritas Management. Ms. Orcutt said that there is no regular or resident manager, and that they are "making up rules", especially about visitors. The Visitor Policy is not distributed to tenants, nor is it posted. Visitors are allowed to stay for more than 8 days if they come from out of state, but no one knows that.

12. Tenant Aurora Grajeda lives at the Mission Hotel, and wanted to know how the Rent Board could affect City Housing's policies. Ms. Grajeda would like to say "no rules", but knows that wouldn't work. She also said there is a noise problem in the hotel.

13. Jen Yu of Mission Agenda and St. Peter's Housing Committee lives at the Royan Hotel, which is run by City Housing. She said that new policies are being implemented that tenants aren't used to. Ms. Yu's parents and brother came by to visit her on Memorial Day, but could only come up one at a time. Ms. Yu sometimes needs childcare after 9:00 p.m., which is a problem. Ms. Yu maintains that SRO tenants come from all walks of life, but the policies are created for drug dealers.

14. Tenant Marty Borrego is an ex-drug addict and alcoholic who lives at the Aranda Hotel. Mr. Borrego thinks that visiting hours should end at 10:00, rather than 9:00, and complains that the managers and desk clerks at the hotel are always drunk. He also was displeased that he had been rented a room that someone had died in.

15. Tenant Heidi Gregorio of Mission Agenda and the SRO Collaborative lives in the Royan Hotel, which is managed by City Housing. Ms. Gregorio said that the 1st and 15th are supposed to be "blackout" dates, but this is enforced on the 30th also. She feels that the hotel is very restrictive toward tenants who've attained residency status, while tourists can do whatever they want. Ms. Gregorio says that people are trying to "make a home out of a room." However, if people agreed to these restrictions when they first moved in, that's different.

16. Tenant Tim Briggs lives at the Royan Hotel. Mr. Briggs signed his lease at 10:00 at night without reading it, and now feels that it contains ridiculous restrictions. Mr. Briggs maintains that he is a "productive member of society" who should be treated like anyone else. Mr. Briggs proposes that, after 6 months, tenants should come under a different set of rules.

17. Tenant Bill Murphy lives at the Crown Hotel. His girlfriend doesn't always know when she's going to get off work, and should be able to come over whenever she gets off. Mr. Murphy contends that the hotel discriminates on the basis of race because his girlfriend is Black and Chinese. He also complains that they don't fix the plumbing.

18. Tenant Joe Shipman lives at the Royan Hotel and thinks that 24-hour notice is "absurd." There are issues with health care workers and with children. Mr. Shipman said that he was told his lease was "no big deal", and now he is stuck with it. He also claims that he has a receipt which shows he is out 11 days' rent. He installed carpet and put up shelves in his unit.

19. Robert Pender congratulated the Commissioners who stayed to listen to the public testimony. He also congratulated the tenants in attendance for organizing; otherwise, "they'll walk all over you, just like the tenants in Parkmerced." He also urged them to register to vote.

20. Earl Brown of the Central City SRO Collaborative distributed a set of proposals that have been endorsed by the SRO Collaborative and Mission Agenda.

21. Jack Colberg used to live in SRO's, but now has a house in Daly City. He thanked the Commissioners for the opportunity to speak, since he believes it is still important to "lend his voice" even though he doesn't live there any more.

22. Tenant Delphine Brody added "Talking Points" that she believes should have been included in Earl Brown's proposals: an appeals process should be in place in the event of suspension of visitor rights and no penalties should kick in while the appeal is pending unless violent or threatening behavior is exhibited; the "no visitors on check day" rule should be eliminated; and "in and outs" should be permitted throughout the night.

At the conclusion of the Public Hearing, the Commissioners and Executive Director Grubb briefly discussed what would happen next. Mr. Grubb will convene meetings of interested parties and come back to the Board with suggestions for amendments to the Uniform Visitor Policy.

VII. Communications

The Board received communications concerning the case at 1423 – 33rd Ave. (AT030047).

VIII. Director's Report

Executive Director Grubb informed the Board that the departmental budget passed its second hearing and is approved. The Ordinances regarding interest on security deposits and Ellis amendments will take effect on June 15th; the Ordinance that authorizes a 50-50 split of any increased water bills related to the renovation of

Hetch-Hetchy (Proposition A) will take effect on June 23rd. Departmental outreach efforts include a training on capital improvement passthrough petitions for small property owners conducted by Senior Administrative Law Judges Sandy Gartzman and Tim Lee; Deputy Director Delene Wolf will be taking part in a training for new counselors at the Tenants' Union.

IX. Calendar Items

June 10, 2003 - NO MEETING

June 17, 2003

11 appeal considerations (1 cont. from 5/20/03)

X. Adjournment

President Wasserman adjourned the meeting at 8:48 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

CITY AND COUNTY OF SAN FRANCISCO



RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
June 17, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

AGENDA

JUN 16 2003

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

SAN FRANCISCO
PUBLIC LIBRARY

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 12 Leona Terr. AL030058
(cont. from 5/20/03)

The landlord appeals the decision granting claims of decreased housing services.

B. 815 O'Farrell #304 AT030073

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

C. 434 Leavenworth #209 AT030077

The tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

D. 404- 12th Ave. #5 AT030079

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

E. 218 Union St. #3 AL030074

The landlord appeals the remand decision determining that the unit is not the tenant's principal place of residence, but delaying the effective date of the rent increase.

F. 179 Douglass St. AL030076



The landlord appeals the decision certifying capital improvement costs but allowing only the imputed rate of interest.

G. 1635 Folsom St. AL030075

The tenant appeals the dismissal of his petition alleging decreased housing services and the landlord's failure to repair.

H. 5140 Diamond Heights Blvd. #208A AL030078 & AT030086

The landlord and tenant appeal the decision certifying capital improvement costs for a condominium unit.

I. 2526 Van Ness Ave. AL030081 & AT030080

The landlord and tenant appeal the decision certifying capital improvement costs.

J. 355 Serrano #2J AT030082

The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

K. 1906 Folsom St. #B AT030088

The tenant appeals the dismissal of a petition alleging decreased housing services and the landlord's failure to repair.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

SHARON K. WASSERMAN
*PRESIDENT*POLLY MARSHALL
*VICE-PRESIDENT*WILLIE L. BROWN, JR.
*MAYOR*JOSEPH GRUBB
*EXECUTIVE DIRECTOR***MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**Tuesday, June 17, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT

JUN 27 2003

SAN FRANCISCO
PUBLIC LIBRARY1/03
KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY**I. Call to Order**

Vice-President Marshall called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present:	Becker; Gruber; Lightner; Marshall; Mosbrucker; Mosser; Murphy.
Commissioners not Present:	Wasserman.
Staff Present:	Grubb; Wolf.

Commissioner Justman appeared on the record at 6:28 p.m.

III. Approval of the MinutesMSC: To approve the Minutes of June 3, 2003.
(Becker/Gruber: 4-0)**IV. Remarks from the Public**

A. Robert Pender, Vice-President of PRO (Parkmerced Residents' Organization), informed the Commissioners that the Tenants' Union is having an Open House on June 21st. Mr. Pender reiterated his objection to a May 29th capital improvement hearing for 37 garden court apartments having been cancelled at the last minute. Mr. Pender feels that this was "unfair" to the tenants. The hearing has been re-scheduled for July 8th and 9th, and he is "hoping for better luck next time."

B. Timothy Chew, the landlord in the case at 5140 Diamond Heights Blvd. #208A (AL030078 & AT030086), told the Board that the Administrative Law Judge granted only the imputed rather than the actual rate of interest on his loan. Mr. Chew said that it is not customary to state the intended use of funds when obtaining a loan from a friend, and the delay in depositing the loan funds was because the money came from overseas.

V. Consideration of Appeals

A. 12 Leona Terr.

AL030058
(cont. from 5/20/03)

The landlord's appeal was filed three days late because the Decision was mailed to the wrong address.



MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 4-0)

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$4,800 due to inadequate heat, mold and peeling lead-based paint in the unit. On appeal, the landlord claims that: the tenant does not care about the conditions in the unit, but just wants her rent reduced; the tenant manipulated the evidence to make the situation look worse than it is; and the tenant has not cooperated in the landlord's attempts to get repairs effectuated.

At the meeting on May 20, 2003, the tenant and the landlord's representative informed the Board that this case has been settled. However, the tenant subsequently notified staff that she did not wish to proceed with the settlement and asked that the landlord's appeal be decided.

MSC: To deny the appeal.
(Becker/Marshall: 3-1; Lightner dissenting)

B. 815 O'Farrell #304

AT030073

The landlord's petition for certification of capital improvement costs to 21 of 42 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship.
(Becker/Lightner: 5-0)

C. 434 Leavenworth #209

AT030077

The tenants' appeal was filed 15 days late because the tenants do not speak English, and take their mail to their daughter in order for her to translate.

MSC: To find good cause for the late filing of the appeal.
(Lightner/Becker: 5-0)

The landlord's petition for certification of capital improvement costs to 56 of 70 units was granted, resulting in a monthly passthrough in the amount of \$29.11. The tenants in one unit appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship.
(Becker/Marshall: 5-0)

D. 404 – 12th Ave. #5

AT030079

The landlord's petition for certification of capital improvement costs to 5 of 7 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship.
(Becker/Marshall: 5-0)

E. 218 Union St. #3

AL030074

The landlord filed a petition seeking a determination as to whether the tenant met the definition of "Tenant in Occupancy" pursuant to Rules and Regulations Section 1.21. The Administrative Law Judge found that he did and no rent increase was therefore warranted. Upon appeal by the landlord, the case was remanded to vacate the decision and find that the subject unit was not the tenant's principal place of residence. Upon further appeal by the tenant, the case was remanded to grant the rent increase, but only as of the date that the Board decided the landlord's appeal. The landlord again appeals, arguing that the rent increase should be effective as of the effective date of the landlord's notice, which would be consistent with the Rules and Regulations and instructions given to landlords upon filing 1.21 petitions.

MSC: To deny the appeal.

(Becker/Gruber: 4-1; Lightner dissenting)

F. 179 Douglass St.

AL030076

The landlords' petition for certification of capital improvement costs was granted. However, the landlords' request for interest at the rate of 9.5% was denied and only the imputed interest rate was allowed because the costs were paid prior to receipt of loan proceeds and the landlord failed to prove payment on the loan. On appeal, the landlord maintains that: there are technical errors in the Decision; the Administrative Law Judge demanded proof of payment on the loan that is not enumerated in the Rules and Regulations, nor was the landlord notified that such proof would be required; and the standard required by the Administrative Law Judge is impossible to meet without advance notice.

MSC: To accept the appeal only to remand the case to the Administrative Law Judge to make any necessary Technical Corrections and to allow the landlord the actual rate of interest on the cost of the window hardware and window balance (Items d and e on the Memorandum of Administrative Law Judge). (Becker/Marshall: 5-0)

G. 1635 Folsom St.

AL030075

The landlord's appeal was filed slightly over one month late because the landlord claims not to have received a copy of the Decision in the mail, and obtained a copy by coming in to the Rent Board office.

MSC: To find good cause for the late filing of the appeal.

(Becker/Lightner: 5-0)

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$11,650.00. On appeal, the landlord claims to have misunderstood the 3-year Statute of Limitations on rent refunds and says that if he had known the rent would be rolled back to its 1992 level, he would have argued more strenuously at the hearing. The landlord also asserts that the tenant's petition only contested the most recent rent increase; other unlawful rent increases should have been challenged at the time they were imposed; and repairs were made that justify the amounts charged.

MSC: To deny the appeal. (Becker/Justman: 5-0)

H. 5140 Diamond Heights Blvd. #208A

AL030078 & AT030086

The landlords' petition for certification of capital improvement costs incurred for a condominium was granted, in part. The landlords appeal the decision, asserting that: the imputed interest rate should not be applied since they had a loan agreement at a rate of 10% but international bank transfer problems occurred which were beyond their control; the amount of the loan equals the cost of the capital improvements; and collection of only the imputed interest rate, when they are repaying the loan at the rate of 10%, presents a hardship. The tenant also appeals, claiming that: the case was not decided on a timely basis; the new windows and siding could be considered repairs rather than capital improvements; payment of the retroactive amount owed would constitute a financial hardship; and a new hearing should be held to consider the landlord's additional documentation.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to re-open the record on the issue of granting the landlords' actual interest rate on the loan; the tenant will be afforded an opportunity to respond. A hearing will be held only if necessary.
(Lightner/Gruber: 5-0)

I. 2526 Van Ness Ave.

AL030081 & AT030080

The landlord's petition for certification of capital improvement costs was granted, in part. The landlord appeals the decision on the grounds that a higher cost for the boiler components than that requested in the petition should be allowed because: the change in the calculations resulted from an approach that the Administrative Law Judge thought more appropriate; and the total passthrough is still less than the amount requested in the petition. One tenant also appeals, claiming that: the replacement carpet should be allocated to all tenants in the building, even those on the floor which did not receive new carpet, because the old carpet emitted foul odors throughout the building and its removal benefited all tenants.

MSC: To deny the landlord's and the tenant's appeals.
(Justman/Gruber: 4-1; Lightner dissenting)

J. 355 Serrano #2J

AT030082

The tenant's appeal was filed 8 months late because the tenant failed to receive a copy of the Decision in the mail and didn't realize her rent was going up until it was time for her lease renewal.

MSC: To find good cause for the late filing of the appeal.
(Becker/Justman: 4-1; Gruber dissenting)

The landlord's petition for rent increases based on increased operating expenses was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

K. 1906 B Folsom St.

AT030088

The tenant's petition alleging decreased housing services and the landlord's failure to repair was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received the notice of hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

Consideration of this appeal was continued to the next meeting in order for staff to obtain additional information.

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. The office workload statistics for the month of May, 2003.
- B. An updated list of Rent Ordinance amendments.
- C. An updated staff roster.
- D. Copies of recent Ordinances regarding Ellis and authorizing a 50-50 split of any increased water bills related to the renovation of Hetch-Hetchy (Proposition A).

VII. Director's Report

Executive Director Grubb informed the Commissioners that proposed legislation making the Rent Board an elected body would go before the Rules Committee of the Board of Supervisors on Monday, June 23rd, at 10:00 a.m. He also told the Board that he will be convening a meeting of interested parties regarding possible amendments to the Residential Hotel Uniform Visitor Policy; Mr. Grubb will act as the neutral. Hopefully, "constructive compromises" will be brought back to the Board within a few months.

VIII. Calendar Items

June 24, 2003 - NO MEETING

July 1, 2003

9 appeal considerations (1 cont. from 6/17/03)

IX. Adjournment

Vice-President Marshall adjourned the meeting at 7:11 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.


**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

 WILLIE L. BROWN, JR.
 MAYOR

 SHARON K. WASSERMAN
 PRESIDENT

 Tuesday, 6:00 p.m.,
 July 1, 2003

 JOSEPH GRUBB
 EXECUTIVE DIRECTOR

 POLLY MARSHALL
 VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

AGENDA

JUN 27 2003

03
 KHIN MAI AUNG
 LARRY BEACH BECKER
 DAVID GUSTAV GRUBER
 FREDERICK HOBSON
 ANTHONY JUSTMAN
 MERRIE T. LIGHTNER
 NEVEO MOSSER
 BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

 SAN FRANCISCO
 PUBLIC LIBRARY

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations,
 members of the public shall be limited to comments of no more
 than 3 minutes' duration.**

- V. Consideration of Appeals

A. 1906 Folsom St. #B AT030088
 (continued from 6/17/03)

The tenant appeals the dismissal of a petition alleging decreased housing services and the landlord's failure to repair.

B. 66 Hazelwood AT030089

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

C. 150 Franklin, Apt. 405 & 203 AT030087 & -90

Two tenants appeal the Minute Order certifying capital improvement costs on the grounds of financial hardship.

D. 427 Stockton St. #709 AT030083

The tenant appeals the decision denying his claim of decreased housing services due to the tenant's having to pay his own PG&E bills.

E. 1181 Clay St. AL030085

The landlord appeals the decision certifying capital improvement costs but determining rent overpayments due to the landlord's failure to discontinue capital improvement passthroughs at the expiration of the amortization periods.



F. 1403-19 Jackson/1459-69 Hyde AL030092

The landlord appeals the decision certifying capital improvement costs, asking to be allowed to amend the petition in order to correct calculation errors.

G. 1402 Ortega St. AL030091

The landlord appeals the remand decision granting a claim of unlawful rent increase, asking that the amounts be distributed to the subtenants on the basis of their proportional share of the rent.

H. 1467 – 7th Ave. AL030093

The landlord appeals the decision granting a claim of decreased housing services, alleging non-receipt of the notice of hearing.

I. 3648 Irving St. AT030094

One tenant appeals the decision granting rent increases based on increased operating expenses.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, July 1, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

I. Call to Order

JUL - 8 2003

KHIN MAI AUNG President Wasserman called the meeting to order at 6:11 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Becker; Lightner; Marshall; Mosbrucker;
Merrie T. Lightner; Mosser; Wasserman.

Commissioners not Present: Gruber; Murphy.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 17, 2003.
(Becker/Marshall: 5-0)

IV. Consideration of Appeals

A. 1906 B Folsom St.

AT030088

(cont. from 6/17/03)

The tenant's petition alleging decreased housing services and the landlord's failure to repair was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant alleges not to have received the notice of hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing;
should the tenant fail to appear again, absent extraordinary
circumstances, no further hearings will be granted.
(Becker/Marshall: 3-2; Lightner, Mosser dissenting)

B. 66 Hazelwood

AT030089

The landlord's petition for certification of the costs of a new roof to two units was granted. The tenant in one unit appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the
tenant's claim of financial hardship. (Becker/Marshall: 5-0)



C. 150 Franklin, Apt. 405 & 203

AT030087 & -90

The tenants' appeals were filed 3 months late because the Minute Order that was issued did not contain language pertaining to hardship appeals.

MSC: To find good cause for the late filing of the appeals.
(Becker/Justman: 5-0)

The landlord's petition for certification of capital improvement costs to 17 of 39 units was granted pursuant to a Minute Order. Two tenants appeal the Minute Order on the grounds of financial hardship.

MSC: To accept the appeals of the tenants in unit #405 and 203
schedule the cases for a hearing on the tenants' claim of financial
hardship. (Marshall/Mosser: 5-0)

D. 427 Stockton St. #709

AT030083

The tenant's petition alleging decreased housing services was denied because the tenant failed to meet his burden of proof. The tenant claimed that the previous landlord paid the tenant's PG&E bills, but that the current landlord did not do so. On appeal, the tenant maintains that: the Administrative Law Judge does not have the power to ignore the clause in his lease that stipulates that the landlord is responsible for payment of PG&E bills; any change to the lease must be in a writing signed by both parties; the tenant never intended to give up his rights under the lease; and he has provided proof that he now pays his own PG&E bills.

MSC: To deny the appeal. (Mosser/Lightner: 3-2; Becker,
Marshall dissenting)

E. 1181 Clay St.

AL030085

The landlord's petition for certification of capital improvement costs to 4 of 7 units was granted, in part. However, rent overcharges were determined to be owing from the landlords to the tenants due to previous capital improvement passthroughs that were not discontinued at the expiration of the amortization periods. On appeal, the landlords claim that they were not given credit for accumulated capital improvement amounts that were carried forward and imposed in subsequent years.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the issue of the proper discontinuation dates for capital improvement passthroughs previously imposed and to adjust overcharges determined to be owing from the landlord to the tenants if necessary. A hearing will be held only if necessary.
(Mosser/Justman: 5-0)

F. 1403-19 Jackson/1459-69 Hyde

AL030092

The landlord's petition for certification of capital improvement costs to 4 of 13 units was granted, in part. The amount certified for certain items was limited to the amount requested by the landlord in the petition. On appeal, the landlord asks to be allowed to amend the petition in order to correct calculation errors and have the full cost of the work certified.

MSC: To accept the appeal and remand the case in order to allow the landlord to amend the petition and have the full cost of allowed items certified; a hearing will be held only if necessary.
(Lightner/Mosser: 5-0)

G. 1402 Ortega St.

AL030091

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$23,461.85. The landlord's appeal was accepted and the case was remanded to determine which portion of the overpayments were paid by the Master Tenant and which amounts were paid by subtenants and for how long, and to order refunds accordingly. The Master Tenant provided the names and addresses of three former subtenants who were given notice of their entitlement to a share of the overpayments, but failed to pursue their claims. Therefore, the Administrative Law Judge found that the Master Tenant's collection of excess rent from the subtenants is not a defense to the landlord's obligation to refund the excess rent to the Master Tenant and the original ruling was upheld. The landlord again appeals, asserting that: the unlawful rent increase resulted from a new lease which established a new tenancy with adequate consideration to justify the new rent; the Master Tenant is the only one with knowledge as to his subtenants, and he should not benefit from inadequate record-keeping; the subtenants could file a future claim against the landlord; and the excess amounts should be held in a constructive trust for the subtenants.

MSC: To deny the appeal. (Justman/Becker: 5-0)

H. 1467 – 7th Ave.

AL030093

The landlord's appeal was filed one month late because the landlord sent in a letter to the Administrative Law Judge, which she thought constituted an appeal.

MSC: To find good cause for the late filing of the appeal.
(Becker/Lightner: 5-0)

The tenant's petition alleging decreased housing services due to the loss of a parking space was granted and the landlord was found liable to the tenant in the amount of \$6,000.00. The landlord failed to appear at the hearing. On appeal, the landlord claims not to have received the Notice of Hearing because the tenant furnished the Board with an incorrect address.

MSC: To accept the appeal and remand the case for a new hearing.
(Lightner/Mosser: 5-0)

I. 3648 Irving St.

AT030094

The landlords' petition for rent increases based on increased operating expenses was granted, resulting in 7% base rent increases to the tenants in three units. The tenant in one unit appeals the decision, asserting that: the tenants should not be responsible for the cost of repairs made to vacant apartments; any repairs made were necessary for the safety of the tenants; property tax and debt service costs are the owner's responsibility; and there are repair and maintenance issues in the building.

MSC: To deny the appeal. (Lightner/Mosser: 5-0)

V. Director's Report

Executive Director Grubb informed the Board that Supervisor Daly's legislation proposing that the Rent Board be elected rather than appointed was heard before the Rules Committee on Monday, June 30th. The Committee sent the proposal on to the full Board with a recommendation not to submit as a ballot measure. The Board of Supervisors will consider the legislation on the 15th of July. Mr. Grubb also told the Commissioners that new security measures, including a recording camera and audio equipment, are being installed in the office.

VI. Remarks from the Public

Gary Briggs expressed his opinion that an elected Rent Board is a bad idea, because there is a "good balance" the way it is now.

VII. Calendar Items

July 8, 2003- NO MEETING

July 15, 2003

10 appeal considerations

Old Business: Bullard v. Rent Board (Superior Court Case No. 319025)

VIII. Adjournment

President Wasserman adjourned the meeting at 7:26 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252-4641 para hacer su solicitud.

“Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.”

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71-Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
July 15, 2003

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

AGENDA

JUL - 8 2003

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

SAN FRANCISCO
PUBLIC LIBRARY

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations,
members of the public shall be limited to comments of no more
than 3 minutes' duration.

- V. Consideration of Appeals

A. 971 Pacific #1 & #6 AT030137 & -38

Two tenants appeal the decision certifying capital improvement costs on
the grounds of financial hardship.

B. 857 Clay St. AT020535 & -36;
AT020538-41;
AT020544-49

The tenants in twelve units appeal the decision certifying capital
improvement costs on the grounds of financial hardship.

C. 1166 Haight #3 & #5 AT030127 & -28

The tenants in two units appeal the decision certifying capital
improvement costs on hardship and other grounds.

D. 975 Burnett Ave. #6 AT030129

The tenant in one unit appeals the decision certifying capital
improvement costs on hardship and other grounds.

E. 238 – 24th Ave. AT030095

The tenant appeals the determination that he is not a "Tenant in
Occupancy" pursuant to Rules Section 1.21.

F. 141 Central Ave. AL030131



The landlord appeals the denial of a Petition for Extension of Time to Do Capital Improvement Work.

G. 2820 Scott St. #21

AL030130

The landlord appeals the decision granting a claim of decreased housing services due to the discontinuation of meal service in a residential hotel.

H. 2117 – 48th Ave.

AT030132 & -33

The tenant appeals two decisions certifying capital improvement costs on the grounds of financial hardship.

I. 1360 Lombard, Apt. 602

AT030135

The tenants in one unit appeal the decision certifying capital improvement costs on the grounds of financial hardship.

J. 46 Bruce Ave.

AL030136

The landlord appeals the decision granting a rent reduction due to decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

Bullard v. S.F. Rent Board (Superior Court Case No. 319025)

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR. THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, *MAYOR*

Tuesday, July 15, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

I. Call to Order

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:08 p.m.

JUL 28 2003
SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Becker; Gruber; Lightner; Mosbrucker;
Wasserman.
Commissioners not Present: Justman; Marshall; Mosser; Murphy.
Staff Present: Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of July 1, 2003.
(Lightner/Gruber: 4-0)

IV. Remarks from the Public

Robert Pender, Vice-President of the Parkmerced Residents' Organization (PRO), informed the Commissioners that several hearings regarding Parkmerced's petition to pass through the costs of piping and landscaping were held last week. The tenants were pleased that the Administrative Law Judge requested that the services of an independent estimator be obtained.

V. Consideration of Appeals

A. 971 Pacific #1 & #6

AT030137 & -38

The landlords' petition for certification of capital improvement costs to 4 of 6 units was granted. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeals of the tenants in unit numbers 1 and 6 and remand the cases for a hearing on the tenants' claims of financial hardship. (Becker/Wasserman: 4-0)

B. 1166 Haight #3 & #5

AT030127 & -28

The landlords' petition for certification of capital improvement costs to 6 of 12 units was granted. The tenants in two units appeal the decision on the grounds of financial hardship. The tenant in unit #3 also appeals on the grounds that a heater is a replacement appliance and therefore not a capital improvement.



MSC: To accept the appeals of the tenants in unit numbers 5 and 3 and remand the case for a hearing on the tenants' claims of financial hardship only. (Lightner/Becker: 4-0)

C. 975 Burnett Ave. #6

AT030129

The landlords' petition for certification of capital improvement costs to 11 of 18 units was granted. One tenant appeals the decision on the grounds that: there are factual errors in the decision; he is still paying for capital improvements that have been fully amortized; and payment of the passthrough constitutes a financial hardship for him.

MSC: To accept the appeal and remand the case for a hearing on the issues of financial hardship and the tenant's rent history; to deny the appeal as to all other claims. (Lightner/Becker: 4-0)

D. 238 – 24th Ave.

AT030095

The landlords' petition for a determination as to whether the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21 was granted and a rent increase from \$1,399.55 to \$1,950.00 was found to be warranted. The Administrative Law Judge found that the unit is not the tenant's principal place of residence and that the tenant actually resides with his family in Mill Valley. On appeal, the tenant claims that: the Administrative Law Judge omitted significant portions of relevant testimony and took testimony out of context; events and correspondence that preceded the adoption of Section 1.21 should not have been included; the tenant provided documentary evidence meeting all of the indicia of residency delineated in the regulation; the tenant was informed by his accountant that one could have homeowner's exemptions on two residences; the subject unit is the tenant's usual place of return, albeit with an atypical schedule; and the property manager is biased against the tenant.

MSC: To deny the appeal. (Lightner/Gruber: 3-1; Becker dissenting)

E. 141 Central Ave.

AL030131

The landlord's Petition for Extension of Time to do Capital Improvement Work was denied because the landlord did not obtain or file copies of all necessary building permits until after the petition was filed and served Notices to Temporarily Terminate Tenancies prior to obtaining all necessary permits. The landlord appeals, asserting that: the Rent Board demanded compliance with the procedural requirements prior to scheduling a hearing in this matter and therefore is estopped from now denying the petition on procedural grounds; if the Rent Board believed the petition was procedurally flawed, it should not have accepted it for filing; and the eviction notices have been withdrawn and new notices are going to be served now that all necessary permits have been issued and the period of time that the tenants will have to vacate has been found to be reasonable.

MSC: In the interests of justice, under the facts of this case, to waive the requirements of Rules Section 12.15(e)(1) and remand the case to allow the landlord to amend the petition as necessary.
(Lightner/Gruber: 3-1; Becker dissenting)

F. 2820 Scott St. #21

AL030130

The tenant's petition alleging decreased housing services and asking for a determination as to the legality of the base rent was granted, in part. The Administrative Law Judge found the landlord liable to the tenant in the amount of \$95 per week due to discontinuation of meal service in this residential hotel, but found the tenant's claim regarding excessive initial rent for the unit to be outside the jurisdiction of the Rent Board. The landlord appeals, maintaining that: the respondent is not the landlord for purposes of liability for rent reductions due to decreased housing services; meals in a hotel are not housing services as defined in the Rent Ordinance; and there is no substantial evidence to support the rent reduction granted.

MSF: To accept the appeal and remand the case to the Administrative Law Judge only to grant the \$70 rent reduction amount requested by the tenant in the petition. (Justman/Becker: 2-2; Gruber, Lightner dissenting)

Because of the lack of a second voting Tenant Commissioner, this case was continued to the next meeting.

G. 2117 – 48th Ave.

AT030132 & -33

The tenant's appeals of two prior decisions certifying capital improvement costs on the grounds of financial hardship were filed over two years late because the tenant's financial circumstances have changed since the decisions were issued.

MSF: To find good cause for the late filing of the appeal.
(Becker/Justman: 2-2; Gruber, Lightner dissenting)

Because of the lack of a second voting Tenant Commissioner, this case was continued to the next meeting.

H. 1360 Lombard, Apt. 602

AT030135

The tenants' appeal of a decision certifying capital improvement costs on the grounds of financial hardship was filed over two years late because the tenants' financial circumstances have changed dramatically due to a stroke experienced by the husband.

MSC: To find no good cause for the late filing of the appeal. The decision is therefore final. (Lightner/Gruber: 3-1; Becker dissenting)

I. 46 Bruce Ave.

AL030136

The tenants' petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$837.50 due to inoperable ventilation fans in the kitchen and bathroom. The landlord appeals, claiming that the amount of the rent reduction is excessive because the tenants vacated the unit and that an ensuing rent increase made the base rent amount stated in the decision incorrect.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to determine the date the tenancy terminated and correct the termination date for the rent reduction, if necessary. A hearing will be held only if necessary. (Becker/Justman: 4-0)

VI. Communications

The Commissioners received correspondence concerning cases on the calendar.

VII. Director's Report

In the absence of Executive Director Grubb, Deputy Director Wolf informed the Board that legislation allowing for "Floating Alternates", who could vote in the absence of either regular member, has been forwarded to the Board of Supervisors. Additionally, Supervisor Daly's legislation proposing that the Rent Board be elected was on the Agenda for today's Board of Supervisors meeting.

VIII. Old Business

Bullard v. S.F. Rent Board (Superior Court Case No. 319025)

Deputy Director Wolf informed the Board that Judge McBride granted the landlord's motion for attorney's fees in the above-referenced case. The City had opposed the motion on the grounds that: 1) the Bullard action did not confer any significant benefit on the general public or a large class of persons, because the preempted law has been applied in only a handful of Rent Board adjudications and only comes into play in unusual cases; and 2) the landlords in Bullard filed suit to promote their own pecuniary interest in receiving higher rent and any public benefit was merely coincidental. The Judge rejected both arguments because he concluded that it was sufficient that the large class of persons in San Francisco who wish to live in property that they own will now have a greater ability to move in to that property; and that the financial benefit that the landlords gained (the ability to charge \$1350 initial monthly rent for the replacement unit, rather than the \$976 that the Rent Board had ordered) was out of balance with the \$21,000 in fees and costs it took them to obtain that victory.

IX. Calendar Items

July 22nd & 29th, 2003 - NO MEETINGS

August 5, 2003

10 appeal considerations (2 cont. from 7/15/03)

New Business:

- A. Review of Commission on the Environment's List of Energy Conservation Improvements
- B. Rent Board Alternative Dispute Resolution Mediation Program

X. Adjournment

President Wasserman adjourned the meeting at 7:29 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71-Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.



WALTER L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

JOSEPH GRUBB
EXECUTIVE DIRECTOR

**CORRECTED MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, July 15, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

President Wasserman called the meeting to order at 6:08 p.m.

II. Roll Call

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Commissioners Present: Becker; Gruber; Lightner; Mosbrucker;
Wasserman.
Commissioners not Present: Marshall; Mosser; Murphy.
Staff Present: Wolf.

Commissioner Justman appeared on the record at 6:18 p.m.

DOCUMENTS DEPT.

III. Approval of the Minutes

JUL 28 2003

MSC: To approve the Minutes of July 1, 2003.
(Lightner/Gruber: 4-0)

SAN FRANCISCO
PUBLIC LIBRARY

IV. Remarks from the Public

Robert Pender, Vice-President of the Parkmerced Residents' Organization (PRO), informed the Commissioners that several hearings regarding Parkmerced's petition to pass through the costs of piping and landscaping were held last week. The tenants were pleased that the Administrative Law Judge requested that the services of an independent estimator be obtained.

V. Consideration of Appeals

A. 971 Pacific #1 & #6

AT030137 & -38

The landlords' petition for certification of capital improvement costs to 4 of 6 units was granted. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeals of the tenants in unit numbers 1 and 6 and remand the cases for a hearing on the tenants' claims of financial hardship. (Becker/Wasserman: 4-0)

B. 1166 Haight #3 & #5

AT030127 & -28

The landlords' petition for certification of capital improvement costs to 6 of 12 units was granted. The tenants in two units appeal the decision on the grounds of financial



hardship. The tenant in unit #3 also appeals on the grounds that a heater is a replacement appliance and therefore not a capital improvement.

MSC: To accept the appeals of the tenants in unit numbers 5 and 3 and remand the case for a hearing on the tenants' claims of financial hardship only. (Lightner/Becker: 4-0)

C. 975 Burnett Ave. #6

AT030129

The landlords' petition for certification of capital improvement costs to 11 of 18 units was granted. One tenant appeals the decision on the grounds that: there are factual errors in the decision; he is still paying for capital improvements that have been fully amortized; and payment of the passthrough constitutes a financial hardship for him.

MSC: To accept the appeal and remand the case for a hearing on the issues of financial hardship and the tenant's rent history; to deny the appeal as to all other claims. (Lightner/Becker: 4-0)

D. 238 – 24th Ave.

AT030095

The landlords' petition for a determination as to whether the tenant is a "Tenant in Occupancy" pursuant to Rules Section 1.21 was granted and a rent increase from \$1,399.55 to \$1,950.00 was found to be warranted. The Administrative Law Judge found that the unit is not the tenant's principal place of residence and that the tenant actually resides with his family in Mill Valley. On appeal, the tenant claims that: the Administrative Law Judge omitted significant portions of relevant testimony and took testimony out of context; events and correspondence that preceded the adoption of Section 1.21 should not have been included; the tenant provided documentary evidence meeting all of the indicia of residency delineated in the regulation; the tenant was informed by his accountant that one could have homeowner's exemptions on two residences; the subject unit is the tenant's usual place of return, albeit with an atypical schedule; and the property manager is biased against the tenant.

MSC: To deny the appeal. (Lightner/Gruber: 3-1; Becker dissenting)

E. 141 Central Ave.

AL030131

The landlord's Petition for Extension of Time to do Capital Improvement Work was denied because the landlord did not obtain or file copies of all necessary building permits until after the petition was filed and served Notices to Temporarily Terminate Tenancies prior to obtaining all necessary permits. The landlord appeals, asserting that: the Rent Board demanded compliance with the procedural requirements prior to scheduling a hearing in this matter and therefore is estopped from now denying the petition on procedural grounds; if the Rent Board believed the petition was procedurally flawed, it should not have accepted it for filing; and the eviction notices have been withdrawn and new notices are going to be served now that all necessary permits have been issued and the period of time that the tenants will have to vacate has been found to be reasonable.

MSC: In the interests of justice, under the facts of this case, to waive the requirements of Rules Section 12.15(e)(1) and remand the case to allow the landlord to amend the petition as necessary. (Lightner/Gruber: 3-1; Becker dissenting)

F. 2820 Scott St. #21

AL030130

The tenant's petition alleging decreased housing services and asking for a determination as to the legality of the base rent was granted, in part. The Administrative Law Judge found the landlord liable to the tenant in the amount of \$95 per week due to discontinuation of meal service in this residential hotel, but found the tenant's claim regarding excessive initial rent for the unit to be outside the jurisdiction of the Rent Board. The landlord appeals, maintaining that: the respondent is not the landlord for purposes of liability for rent reductions due to decreased housing services; meals in a hotel are not housing services as defined in the Rent Ordinance; and there is no substantial evidence to support the rent reduction granted.

MSF: To accept the appeal and remand the case to the Administrative Law Judge only to grant the \$70 rent reduction amount requested by the tenant in the petition. (Justman/Becker: 2-2; Gruber, Lightner dissenting)

Because of the lack of a second voting Tenant Commissioner, this case was continued to the next meeting.

G. 2117 – 48th Ave.

AT030132 & -33

The tenant's appeals of two prior decisions certifying capital improvement costs on the grounds of financial hardship were filed over two years late because the tenant's financial circumstances have changed since the decisions were issued.

MSF: To find good cause for the late filing of the appeal. (Becker/Justman: 2-2; Gruber, Lightner dissenting)

Because of the lack of a second voting Tenant Commissioner, this case was continued to the next meeting.

H. 1360 Lombard, Apt. 602

AT030135

The tenants' appeal of a decision certifying capital improvement costs on the grounds of financial hardship was filed over two years late because the tenants' financial circumstances have changed dramatically due to a stroke experienced by the husband.

MSC: To find no good cause for the late filing of the appeal. The decision is therefore final. (Lightner/Gruber: 3-1; Becker dissenting)

I. 46 Bruce Ave.

AL030136

The tenants' petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$837.50 due to inoperable ventilation fans in the kitchen and bathroom. The landlord appeals, claiming that the amount of the rent reduction is excessive because the tenants vacated the unit and that an ensuing rent increase made the base rent amount stated in the decision incorrect.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to determine the date the tenancy terminated and

correct the termination date for the rent reduction, if necessary. A hearing will be held only if necessary. (Becker/Justman: 4-0)

VI. Communications

The Commissioners received correspondence concerning cases on the calendar.

VII. Director's Report

In the absence of Executive Director Grubb, Deputy Director Wolf informed the Board that legislation allowing for "Floating Alternates", who could vote in the absence of either regular member, has been forwarded to the Board of Supervisors. Additionally, Supervisor Daly's legislation proposing that the Rent Board be elected was on the Agenda for today's Board of Supervisors meeting.

VIII. Old Business

Bullard v. S.F. Rent Board (Superior Court Case No. 319025)

Deputy Director Wolf informed the Board that Judge McBride granted the landlord's motion for attorney's fees in the above-referenced case. The City had opposed the motion on the grounds that: 1) the Bullard action did not confer any significant benefit on the general public or a large class of persons, because the preempted law has been applied in only a handful of Rent Board adjudications and only comes into play in unusual cases; and 2) the landlords in Bullard filed suit to promote their own pecuniary interest in receiving higher rent and any public benefit was merely coincidental. The Judge rejected both arguments because he concluded that it was sufficient that the large class of persons in San Francisco who wish to live in property that they own will now have a greater ability to move in to that property; and that the financial benefit that the landlords gained (the ability to charge \$1350 initial monthly rent for the replacement unit, rather than the \$976 that the Rent Board had ordered) was out of balance with the \$21,000 in fees and costs it took them to obtain that victory.

IX. Calendar Items

July 22nd & 29th, 2003 - NO MEETINGS

August 5, 2003

10 appeal considerations (2 cont. from 7/15/03)

New Business:

- A. Review of Commission on the Environment's List of Energy Conservation Improvements
- B. Rent Board Alternative Dispute Resolution Mediation Program

X. Adjournment

President Wasserman adjourned the meeting at 7:29 p.m.

CITY AND COUNTY OF SAN FRANCISCO



RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
August 5, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

AGENDA

JUL 28 2003

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

SAN FRANCISCO
PUBLIC LIBRARY

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations,
members of the public shall be limited to comments of no more
than 3 minutes' duration.

- V. Consideration of Appeals

A. 2820 Scott St. #21

AL030130
(cont. from 7/15/03)

The landlord appeals the decision granting a claim of decreased housing services due to the discontinuation of meal service in a residential hotel.

B. 2117 – 48th Ave.

AT030132 & -33
(cont. from 7/15/03)

The tenant appeals two decisions certifying capital improvement costs on the grounds of financial hardship.

C. 221 Serrano Dr.

AT030141

The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

B. 1077 Ashbury St. #C

AT030142

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

C. 514 Vidal Dr.

AT030139

The tenant appeals the decision certifying the costs of a new roof.

D. 1541 California #25

AT030140



The tenant appeals the determination that she is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

E. 53 Ford St. AL030144

The landlord appeals the decision only partially certifying capital improvement costs.

F. 4042 – 22nd St. AL030143

The landlord appeals the decision granting claims of decreased housing services.

G. 1266 – 20th Ave. AT030084
(rescheduled from 7/1/03)

The tenant appeals the decision certifying capital improvement costs.

H. 305 Webster St. AT030145

The tenants appeal the decision denying claims of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

Rent Board Alternative Dispute Resolution Mediation Program

X. Calendar items

XI. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, August 5, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

KHIN MAI AUNG
LARRY BEACH BECKER President Wasserman called the meeting to order at 6:10 p.m.

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Becker; Gruber; Lightner; Marshall;
Mosbrucker; Mosser; Wasserman.
Commissioners not Present: Murphy.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:23 p.m.

DOCUMENTS DEPT.

III. Approval of the Minutes

MSC: To approve the Minutes of July 15, 2003.
(Gruber/Becker: 5-0)

AUG 25 2003

SAN FRANCISCO
PUBLIC LIBRARY

IV. Remarks from the Public

A. Tenant Janice Arnold of 333 Webster St. (AT030145) told the Board that a letter from a prior tenant submitted by the landlord is filled with lies, and is irrelevant. Ms. Arnold wants the letter removed or to be given an opportunity to respond.

B. Andrea Young, the tenant at 1541 California St. (AT030140), said that she keeps old newspapers in her apartment, but this is not indicative of her not living there; she has a post office box, so she doesn't receive mail at the unit; she was away due to her mother's illness; and she never changed the address on her checks since attending college.

C. Andrew Zacks, representing the landlord at 2820 Scott St. #21 (AL030130), said that his client is prepared to accept a \$70 per month rent reduction. Mr. Zacks requested that it be made clear that \$70 is the proper amount, and not just the amount requested in the petition.

V. Consideration of Appeals

A. 2820 Scott St. #21

AL030130
(cont. from 7/15/03)

The tenant's petition alleging decreased housing services and asking for a determination as to the legality of the base rent was granted, in part. The



Administrative Law Judge found the landlord liable to the tenant in the amount of \$95 per week due to discontinuation of meal service in this residential hotel, but found the tenant's claim regarding excessive initial rent for the unit to be outside the jurisdiction of the Rent Board. The landlord appeals, maintaining that: the respondent is not the landlord for purposes of liability for rent reductions due to decreased housing services; meals in a hotel are not housing services as defined in the Rent Ordinance; and there is no substantial evidence to support the rent reduction granted. Because of the lack of a second voting Tenant Commissioner, this case was continued from the meeting on July 15th.

MSC: To accept the appeal only to remand the case to the Administrative Law Judge with instructions to grant \$70.00 per week as the appropriate amount of the rent reduction.
(Becker/Marshall: 3-2; Gruber, Lightner dissenting)

B. 2117 – 48th Ave.

AT030132 & -33
(cont. from 7/15/03)

The tenant's appeal of two prior decisions certifying capital improvement costs was filed over two years late because the tenant's financial circumstances have changed since the decisions were issued.

MSC: To find no good cause for the late filing of the appeals. The decisions are therefore final. (Gruber/Lightner: 5-0)

C. 221 Serrano Dr.

AT030141

The landlord's petition for rent increases based on increased operating expenses was granted, resulting in 7% base rent increases in this multi-unit complex. One tenant appeals the decision on the grounds of financial hardship.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

D. 1077 Ashbury St. #C

AT030142

The landlords' petition for certification of capital improvement costs to 3 of 11 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship with instructions that any deferral granted shall be for a limited period of time. After the time period has expired, if the tenant believes she is experiencing continuing hardship, she may re-open the case.
(Lightner/Becker: 4-1; Gruber dissenting)

E. 514 Vidal Dr.

AT030139

The landlord's petition for certification of the cost of a new roof for two units was granted. One tenant appeals the decision, alleging that: the roof replacement constituted ordinary repair, and is not a capital improvement; and without the repair, additional health risks, harm and property damage would be inflicted upon the tenants.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

F. 1541 California St. #25

AT030140

The landlord's petition asking for a determination under Rules Section 1.21 was granted as the Administrative Law Judge found that the subject unit is not the tenant's principal place of residence. On appeal, the tenant claims that: her rent checks show her parents' address in Los Angeles, which she uses for mailing purposes; she does not make loud noises while on the premises, which is why no one hears her; she does not receive mail at the unit, but uses a post office box; her possessions are still in the unit, establishing residency; and she has returned to the subject premises after family emergencies and travel necessitated by education and employment. After discussion, it was the consensus of the Board to continue this case in order for staff to contact the tenant and provide her with the opportunity to furnish a Declaration of Non-Receipt of Notice of Hearing under penalty of perjury, if appropriate.

G. 53 Ford St.

AL030144

The landlords' petition for certification of the costs of new porches, deck and stairway was granted but the costs of a room added to the rear of the tenant's unit was denied as not being necessary. Additionally, rent overpayments in the amount of \$6,233.09 were determined to be owing from the landlord to the tenants. The landlord appeals, providing additional documentation to prove that he is entitled to the actual interest rate on his loan; asking for clarification as to when he is next entitled to impose a rent increase; and maintaining that the tenant should be required to pay for the cost of the porch roof replacement.

MSC: To deny the appeal except to remand the case for a Technical Correction regarding the date that the landlord is next entitled to impose a rent increase. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

H. 4042 – 22nd St.

AL030143

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,768.75. On appeal the landlord, who failed to appear at the subject hearing, alleges that: the tenant's complaints are exaggerated; there are factual errors in the decision; the first notice she had of several of the alleged conditions was with receipt of the petition filed by the tenant; the conditions have almost completely been remedied; there is sufficient hot water in the building; and the landlord also lives in the building and does not experience the other tenants as creating excessive noise.

MSC: To deny the appeal. (Becker/Marshall: 4-1; Lightner dissenting)

I. 1266 – 20th Ave.

AT030084

(rescheduled from 7/1/03)

The landlord's petition for certification of capital improvement costs for a single family dwelling was granted, in part. The tenant appeals, asserting that: the Ammiano amendments pertaining to capital improvements should apply to this case since proper notice of the passthrough was not issued until after the effective date of the amendments; there are factual inaccuracies and improper application of relevant law in the Decision; the landlord is retaliating against the tenant by Ellising the building; the

replacement capital improvements were necessitated by the landlord's deferred maintenance; the landlord had actual and constructive notice of the conditions; notice to the landlord of the condition is not a prerequisite for finding deferred maintenance, and the landlord had constructive notice of the condition of the stairs; remarks made by the tenant were taken out of context; and the repairs that were made do not constitute capital improvements.

MSC: To deny the appeal. (Lightner/Gruber: 4-1; Becker dissenting)

J. 305 Webster St.

AT030145

The tenants' petition alleging decreased housing services was denied because the Administrative Law Judge found that the tenants had failed to provide access to the unit in order for the repairs to be effectuated. On appeal, the tenants claim that: access to the unit had been granted since the date of the inspection by the building inspector up until the date of the hearing; the landlord was required to keep the premises in a habitable condition as long as the tenants remained on the premises, despite a Superior Court judgment that terminated the tenancy as of June 24, 2002; and there are factual errors in the decision.

MSC: To deny the appeal. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Board received the office workload statistics for the month of June, 2003.

VII. Director's Report

In the absence of Executive Director Grubb, Deputy Director Wolf informed the Commissioners that the City Attorney filed an appeal of Judge McBride's decision in the case of Baba v. Rent Board (Superior Court Case No. 501589), which enjoined the agency from enforcing Sections 37.10A(c) and (g) {the Daly amendments} of the Ordinance. The filing of the appeal automatically stays the decision pending appeal. Therefore, unless and until the Court of Appeal grants a motion to lift the stay or denies the City's appeal, landlords must put a threat or request for a tenant to move in writing within 5 days of the threat or request, independent tenant counsel and court approval are required for a valid waiver of tenant rights under the Ordinance, and landlords must file settlement agreements with the Board. The Deputy Director also told the Board that legislation providing for "Floating Alternates" for Commissioners would be heard before the Land Use Committee of the Board of Supervisors on Monday, August 11th.

VIII. Old Business

Rent Board Alternative Dispute Resolution Mediation Program

The Commissioners briefly discussed a new alternative dispute resolution program proposed by staff in response to demand from the public, which could be requested by either a landlord or tenant without filing a formal petition with the Rent Board. Alternative dispute resolution would provide landlords, tenants, roommates, or neighbors a voluntary opportunity to resolve housing related issues in an informal, confidential setting. Agreements could be binding at the option of the parties, and

would not be subject to appeal. Alternative dispute resolution would not be available if a Rent Board petition or court case is pending involving the same issue.

MSC: To approve the new Rent Board Alternative Dispute Resolution Mediation Program. (Marshall/Gruber: 5-0)

The anticipated start date for the new program is October 1, 2003.

IX. Calendar Items

August 12, 19 & 26, 2003 - NO MEETINGS

September 2, 2003

11 appeal considerations (1 cont. from 8/5/03)

X. Adjournment

President Wasserman adjourned the meeting at 7:55 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71-Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
September 2, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

AGENDA

AUG 25 2003

103
KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

SAN FRANCISCO
PUBLIC LIBRARY

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations,
members of the public shall be limited to comments of no more
than 3 minutes' duration.

- V. Consideration of Appeals

A. 246 Cole St. AT030269

The tenants in one unit appeal the decision certifying capital
improvement costs on the grounds of financial hardship.

B. 322 – 14th St. #11 & #8 AT030152 & AT030263

The tenants in two units appeal the decision certifying capital
improvement costs on the grounds of financial hardship.

C. 123 – 12th Ave., Apt. #1 AT030146

The tenant appeals the dismissal of a petition alleging decreased
housing services.

D. 635 Ellis St. #101, 102 & 1 AT030264 thru -66

The tenants in three units appeal the decision certifying capital
improvement costs on the grounds of financial hardship.

E. 1253 Bush St. #302 & 503 AT030267 & -68

The tenants in two units appeal the decision certifying capital
improvement costs on the grounds of financial hardship.

F. 39 Day St. AL030150



The Master Tenant appeals the decision granting rent refunds to the subtenants because the Master Tenant is charging the subtenants more rent than he pays to the landlord.

G. 757 Green St. AT030147 & -48

The tenants in two units appeal the decision granting rent increases based on comparable rents.

H. 1439 Ocean Ave. #2 AL030149

The landlord appeals the remand decision finding that the premises are not exempt due to Costa-Hawkins.

I. 830 Hyde St. #7 AL030151

The landlord appeals the decision determining that a rent increase is not warranted pursuant to Rules and Regulations Section 6.14.

J. 1615 Jones St. #3 AL030153

The landlord appeals the decision granting claims of decreased housing services.

K. 1541 California St. #25 AT030140
(cont. from 8/5/03)

The tenant appeals the determination that she is not a "Tenant in Occupancy" pursuant to Rules Section 1.21.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

City and County of San Francisco



SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Residential Rent Stabilization and Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, September 2, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

I. Call to Order

President Wasserman called the meeting to order at 6:05 p.m.

SEP 10 2003

SAN FRANCISCO
PUBLIC LIBRARY

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Becker; Gruber; Lightner; Marshall;
Mosbrucker; Mosser; Wasserman.
Commissioners not Present: Murphy.
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:07 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 5, 2003.
(Gruber/Lightner: 5-0)

IV. Remarks from the Public

A. Linda Martinez told the Board that senior citizens could be adversely affected by Rules and Regulations Section 6.15C(3), which requires that master tenants pay a proportionate share of the rent. Ms. Martinez suggested that the Board change the regulation.

V. Consideration of Appeals

A. 246 Cole St.

AT030269

The landlord's petition for certification of capital improvement costs was granted, in part. The tenants in one unit appeal the decision on the grounds of financial hardship.

MSC: To deny the appeal. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

B. 322 – 14th St. #11 & #8

AT030152 & AT030263

The tenant in unit #8 filed his appeal 13 days late because he is a working single parent and did not have time to file the appeal earlier.

MSC: To recuse Commissioner Becker from consideration of this appeal.
(Marshall/Lightner: 5-0)

MSC: To find good cause for the late filing of the appeal.
(Marshall/Justman: 5-0)

The landlord's petition for certification of capital improvement costs to 9 of 17 units was granted. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #8 and remand the case for a hearing on the tenant's claim of financial hardship.

MSC: To accept the appeal of the tenant in unit #11 and remand the case for a hearing on the tenant's claim of financial hardship.

C. 123 – 12th Ave., Apt. #1 AT030146

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Lightner/Justman: 5-0)

D. 635 Ellis St. #101, 102 & 1 AT030264 thru -66

The tenant in unit #1 filed his appeal 5 days late because the tenant believed that the deadline was 15 business days after the mailing of the decision, rather than calendar days.

MSC: To find good cause for the late filing of the appeal.
(Becker/Lightner: 5-0)

The landlord's petition for certification of capital improvement costs to 7 of 18 units was granted. The tenants in three units appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #101 and remand the case for a hearing on the tenant's claim of financial hardship.
(Marshall/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #102 and remand the case for a hearing on the tenant's claim of financial hardship.
(Lightner/Gruber: 5-0)

MSC: To accept the appeal of the tenant in unit #1 and remand the case for a hearing on the tenant's claim of financial hardship.
(Becker/Marshall: 5-0)

E. 1253 Bush St. #302 & 503 AT030267 & -68

The tenant in unit #503 filed her hardship appeal one day late.

MSC: To find good cause for the late filing of the appeal.
(Lightner/Gruber: 5-0)

The landlord's petition for certification of capital improvement costs to 14 of 33 units was granted. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #302 and remand the case for a hearing on the tenant's claim of financial hardship.
(Becker/Marshall: 5-0)

MSC: To accept the appeal of the tenant in unit #503 and remand the case for a hearing on the tenant's claim of financial hardship.
(Becker/Marshall: 5-0)

F. 39 Day St.

AL030150

The master tenant's appeal was filed thirteen days late because the master tenant is temporarily living in Turkey and experienced delays with the mail.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 4-1; Lightner dissenting)

The tenants' petition alleging that the master tenant has unlawfully charged them more rent than the master tenant is paying to the landlord was granted, and the master tenant was found liable to the subtenants in the amount of \$2,800.00. On appeal, the master tenant claims that: repayment of the amount granted to the subtenants would present him with a financial hardship; he was unaware of the applicable law; he sublet the unit in the event of his return because it is close to his son's school; and he rented the apartment to the subtenants fully furnished.

MSC: To deny the appeal. (Gruber/Justman: 5-0)

G. 757 Green St.

AT030147 & -48

The landlord filed a petition for rent increases based on rents for comparable units. A decision was issued on the threshold question of jurisdiction, because this is a family dispute and the tenants maintained that the Rent Board did not have jurisdiction over this matter. The Administrative Law Judge found that the Board has jurisdiction to decide the landlord's petition, which was upheld by the Board upon appeal by the tenants. In the remand decision, the Administrative Law Judge grants the landlord's petition, and sets the base rents for the two units at \$805.00 per month. The tenants appeal, averring that: there are factual errors in the decision; their father, the landlord, promised that they could live rent-free in the building forever; the units are in need of repair, and are not in good condition; parking was included with the unit; the Rent Board does not have jurisdiction to create a tenancy, and there is no landlord-tenant relationship here; the Rent Board cannot increase rent when there was no obligation that rent be paid; and Rules Section 6.11(a)(1)(A) is inapplicable.

MSC: To deny the appeals. (Lightner/Gruber: 5-0)

H. 1439 Ocean Ave. #2

AL030149

The tenant's petition alleging an unlawful rent increase was denied because the Administrative Law Judge found that the tenant's unit is separately alienable from the title to any other dwelling unit and is therefore exempt pursuant to Costa-Hawkins. The Board accepted the tenant's appeal and remanded the case to the Administrative Law Judge to vacate the decision and find that the premises are not

exempt from rent control for this tenant under the facts of this case because the landlord combined a residential with a commercial unit, which changed the property into a single family dwelling. The landlord appeals the remand decision, asserting that: the decision is based on misinformation; the building was always classified as a single-family dwelling in the 3-R Report; the second residential unit was illegally created four years after the tenant moved in to the building and was occupied as a residence for less than a year; and the second illegal unit has been reclaimed for commercial and storage use, which is its original and legal purpose.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Gruber, Lightner dissenting)

I. 830 Hyde St. #7

AL030151

The landlord's petition for a rent increase from \$1,066.00 to \$1,900.00 based on Rules and Regulations Section 6.14 was denied because the Administrative Law Judge found that the landlord failed to prove that the original tenant vacated or no longer permanently resided in the unit. On appeal, the landlord maintains that: the Administrative Law Judge used too high a standard of proof for a civil case; the Administrative Law Judge exhibited bias against the landlord; the tenant contradicted herself at the hearing and was not credible in her assertions or behavior; and the landlord did not have the opportunity to cross-examine the original tenant at the hearing, since he did not attend.

MSC: To recuse Commissioner Mosser from consideration of this appeal. (Lightner/Gruber: 5-0)

MSC: To deny the appeal. (Marshall/Becker: 5-0)

J. 1615 Jones St. #3

AL030153 & AT030272

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$337.50 due to a leaking kitchen sink and faulty electrical service. On appeal, the landlord claims: that the rent reduction for the electrical service was granted for a period of time when the problem had been abated; and that the tenant gave perjured testimony. The tenant also appeals, claiming that the landlord had notice regarding the electrical problem since October of 2001, and the rent reduction should be granted back to that date.

MSC: To accept the appeals and remand the case to the Administrative Law Judge only on the issue of the commencement date and duration of the rent reduction granted for the electrical work; a hearing will be held only if necessary. (Gruber/Lightner: 5-0)

K. 1541 California St. #25

AT030140
(cont. from 8/5/03)

The landlord's petition asking for a determination under Rules Section 1.21 was granted as the Administrative Law Judge found that the subject unit is not the tenant's principal place of residence. On appeal, the tenant claims that: her rent checks show her parents' address in Los Angeles, which she uses for mailing purposes; she does not make loud noises while on the premises, which is why no one hears her; she does not receive mail at the unit, but uses a post office box; her possessions are still in the unit, establishing residency; and she has returned to the

subject premises after family emergencies and travel necessitated by education and employment. At the meeting on August 5th, the Board decided by consensus to continue this case in order for staff to contact the tenant and provide her with the opportunity to furnish a Declaration of Non-Receipt of Notice of Hearing under penalty of perjury, if appropriate, which was furnished by the tenant.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing. (Becker/Marshall: 5-0)

VI. Communications

The Commissioners received the following communications:

- A. The office workload statistics for the month of July 2003, which need to be corrected.
- B. The Notice of the Public Hearing on proposed amendments to the Uniform Visitor Policy for Residential Hotels, which will be held on September 16, 2003 at 7:30 p.m.

VII. Director's Report

Executive Director Grubb informed the Board that the Committee he convened to suggest possible amendments to the Uniform Visitor Policy for residential hotels has completed their work and their proposals will be considered at a September 16th Public Hearing. The Committee met four times and consisted of four landlord representatives, four tenant representatives, one neutral and Mr. Grubb. Consensus was reached on all issues that were raised by the public at the three Public Hearings held by the Board on this issue. The Executive Director also gave the Board members a copy of the Landlord Survey Report that was done by Bay Area Economics as the third and final installment of the Housing Study. Mr. Grubb will now contact members of the Board of Supervisors to let them know that the Housing Study has been concluded and to see if there is any interest in holding a Public Hearing on the issues raised.

IV. Remarks from the Public (cont.)

- B. Tenant Anita Barnes of 1439 Ocean Ave. #2 (AL030149) asked several questions regarding the disposition of her landlord's appeal. She told the Board that she had been "inspired" by them, so much so that she had registered for the LSAT that morning.

VIII. Calendar Items

September 9, 2003 - NO MEETING

September 16, 2003

7:30 3 appeals & Golden Gateway tenant appeals (108)
Public Hearing:
 Proposed Amendments to the Uniform Visitor Policy for Residential Hotels

IX. Adjournment

President Wasserman adjourned the meeting at 7:10 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
September 16, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

- | | | | |
|---------------------|-------|---|---------------------------------|
| KHIN MAI AUNG | I. | Call to Order | SEP 10 2003 |
| LARRY BEACH BECKER | II. | Roll Call | SAN FRANCISCO
PUBLIC LIBRARY |
| DAVID GUSTAV GRUBER | III. | Approval of the Minutes | |
| FREDERICK HOBSON | IV. | Remarks from the Public | |
| ANTHONY JUSTMAN | | NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations,
members of the public shall be limited to comments of no more
than 3 minutes' duration. | |
| MERRIE T. LIGHTNER | V. | Consideration of Appeals | |
| NEVEO MOSSER | A. | 798 Post #103 | AT030271 |
| BARTHOLOMEW MURPHY | | One tenant appeals the decision certifying capital improvement costs on
the grounds of financial hardship. | |
| | B. | 150 Franklin #302 | AT030273 |
| | | One tenant appeals the Minute Order certifying capital improvement
costs on the grounds of financial hardship. | |
| | C. | 444-448 Page St. | AT03027 |
| | | One tenant appeals the decision certifying capital improvement costs. | |
| | D. | Golden Gateway | AT030154 – AT030262 |
| | | The tenants in 108 units appeal the decision certifying the costs of
voluntary seismic retrofit work at this multi-building complex. | |
| | VI. | Public Hearing | |
| 7:30 | | Proposed Amendments to the Uniform Visitor Policy for Residential
Hotels | |
| | VII. | Communications | |
| | VIII. | Director's Report | |

- IX. Old Business
- IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- X. New Business
- XI. Calendar Items
- XII. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, September 16, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

SEP 23 2003

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

Vice-President Marshall called the meeting to order at 6:00 p.m.

II. Roll Call

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Commissioners Present: Becker; Gruber; Justman; Lightner; Marshall;
Mosbrucker; Mosser; Murphy.
Commissioners not Present: Wasserman.
Staff Present: Gartzman; Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of September 2, 2003 with the following correction: on page 2, under the motions regarding the hardship appeals at 322- 14th St. #11 and #8, to show that the motions were made by Commissioner Marshall and seconded by Commissioner Justman and passed 5-0. (Gruber/Becker: 5-0)

IV. Consideration of Appeals

A. 798 Post #103

AT030271

The landlord's petition for certification of capital improvement costs to 31 of 47 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Lightner: 5-0)

B. 150 Franklin #302

AT030273

The tenant's appeal was filed almost 6 months late because the Minute Order did not contain any language regarding the tenant's right to file a hardship appeal.

MSC: To find good cause for the late filing of the appeal.
(Becker/Lightner: 5-0)

The landlord's petition for certification of capital improvement costs to 17 of 39 units was granted pursuant to a Minute Order. The tenants in one unit appeal the Minute Order on the grounds of financial hardship.



MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenants' claim of financial hardship.
(Becker/Lightner: 5-0)

C. 444-448 Page St.

AT030270

The landlord's petition for certification of capital improvement costs to the tenants in three units was granted. The tenant in one unit appeals the decision, alleging that the Administrative Law Judge failed to hear all the evidence and failed to "establish the link of landlord negligence."

MSC: To recuse Commissioner Becker from consideration of this appeal.
(Marshall/Lightner: 5-0)

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

D. Golden Gateway

AT030154 – AT030262

The tenant at 440 Davis Court #514 filed her substantive appeal 3 months late because she was traveling throughout the summer in order to help her children move.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 5-0)

The tenant at 440 Davis Court #605 filed his substantive appeal 7 weeks late because he was traveling at the time the decision was issued.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 5-0)

The tenant at 440 Davis Court #1616 filed their substantive and hardship appeal 1 day late because the tenant is a native speaker of Farsi.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 5-0)

The tenant at 155 Jackson #908 filed her substantive and hardship appeal 3 days late because she did not receive the decision until 4 days before the deadline.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 5-0)

The tenant at 155 Jackson #2206 filed her substantive appeal 9 days late because she was traveling with her grandson at the time the decision was issued.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 5-0)

The tenant at 155 Jackson #2404 filed her substantive appeal 9 days late because she was traveling at the time the decision was issued.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 5-0)

The tenant at 17 Whaleship Plaza filed her substantive appeal 7 days late because she was traveling at the time the decision was issued and management was unable to locate her mail immediately upon her return.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 5-0)

The tenant at 550 Battery #1120 filed her substantive and hardship appeal 22 days late because she was involved in a slip and fall accident at the time the decision was issued.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 5-0)

The landlord's petition for certification of the costs of voluntary seismic work to 622 units was granted, in part, resulting in passthroughs ranging from \$14.00 to \$27.72 per month. 108 tenants appeal the decision. Most of the tenants are represented by fellow tenant Robert Coleman (the joint appeal); tenant Thomas Flowers filed a substantive appeal on behalf of himself and one other tenant (the Flowers appeal); two tenants filed individual substantive appeals; and twenty tenants filed appeals on the grounds of financial hardship.

The arguments put forward by the tenants in the joint appeal are as follows: the work does not constitute a capital improvement because it harmed rather than benefited the tenants by creating new structural weaknesses in the buildings; evidence of previous seismic work at the property and lack of completion signoff were disregarded by the Administrative Law Judge; the decision misallocates costs by ignoring benefit to the public; the landlord's key financial witness provided false testimony at the hearing and therefore should not be considered credible in any of his assertions; the landlord's attorney engaged in witness tampering; and the imputed interest rate in effect at the time the amended petition was filed should be used.

MSC: To deny the joint appeal filed by tenant Robert Coleman on behalf of himself and 85 other tenants except to remand the case to the Administrative Law Judge to re-examine the percentage allocation to the retail portion of the property by determining whether there is any additional square footage in the form of common or miscellaneous square footage that should be allocated to the retail side in the same way that the Common and Miscellaneous columns in paragraph 25 of the Decision were allocated to the residential percentage. (Justman/Marshall: 5-0)

The arguments put forward by the tenants in the Flowers appeal are as follows: since the buyer and seller of the property were aware of pre-existing earthquake problems at the time of sale, the purchase price was undoubtedly discounted and recovery of capital improvement passthroughs for the work constitutes "double-dipping"; and the work does not meet the definition of capital improvement because it was not proved that the property's value was increased nor that its useful life was prolonged.

MSC: To deny the appeal filed by tenant Thomas Flowers on behalf of himself and one other tenant. (Gruber/Lightner: 5-0)

Due to the lateness of the hour, the Board continued consideration of the appeals filed by twenty-two individual tenants to the September 30th meeting.

V. Public Hearing

Proposed Amendments to the Uniform Visitor Policy for Residential Hotels

In accordance with the requirement that the Rent Board review the provisions of the Uniform Visitor Policy on an annual basis, three Public Hearings were held. As a result of concerns raised by tenants at those hearings, Executive Director Grubb convened a Committee to suggest possible amendments to the Visitor Policy. The Visitor Policy Committee met four times and consisted of four landlord representatives, four tenant representatives, one neutral and Mr. Grubb. A majority of the members reached agreement on all issues that were raised by the public at the Public Hearings, and the Committee came up with a list of proposed amendments to the Visitor Policy that were put out for Public Hearing.

The Public Hearing convened at 7:35 p.m. and concluded at 8:40 p.m.; sixteen individuals testified as follows below:

1. Delphine Brody, President of the Seneca Hotel Tenants' Association, said that the way the Committee was formed should have been more democratic. She expressed her thanks for the proposals that she agrees with, but said that many of the proposals are "anti-tenant and pro-landlord" and took away some of the protections that previously existed. Ms. Brody feels that: tenants should be able to have 15 consecutive overnight visitors, rather than 8; tenants should not have to wait 32 days before they can have visitors; tenants should be able to request permission for an overnight visitor until 9:00 p.m. on the day of the visit; any staff member of the hotel should be able to approve a request for a visitor; there should be no "blackout days" on visitation; and violations of the Visitor Policy should not be used as a basis for eviction.

2. Meredith Walters of the Central City SRO Collaborative thanked the Committee members for their time, but said that the process for getting tenants on the Committee needs to be more clear and representative in the future. While Ms. Walters believes the proposed amendments are "a step in the right direction," she felt that: secondary ID's should not be required; a \$20 fine for losing an ID will not be a sufficient deterrent – either ID's should not be retained, or the fine should be higher; and the Policy should state that permission for an overnight visitor can be requested up until 9:00 p.m.

3. Sean Carroll of the Seneca Hotel Tenants' Union said that it is humiliating to have to escort one's guests in the hotel – if there is a problem, the guest should be "86-ed"; hotel clerks should be able to write down the information, but not hold a guest's ID; and the Visitor Policy should be displayed poster sized in the lobby of every hotel.

4. Wendy Phillips of the Mission SRO Collaborative said that the amendments had specified that the Visitor Policy be posted in various languages, and that the Rent Board would provide translation if necessary – this was left out, and should be added back in. Ms. Phillips also stated that there should not be an additional blackout day on visitation in addition to the one allowed by the present Uniform Visitor Policy; any blackout day should be on an actual check day; minors

should not have to show ID's; child care workers shouldn't count as overnight visitors after 9:00 p.m., unless they stay overnight; and any Federal or State ID should be sufficient.

5. Tenant James Collins of 6th Street Agenda and Mission Agenda was a member of the Committee. Mr. Collins said that an ID issued by the Dept. of Corrections should be acceptable; one form of ID should be enough; and notification requirements are unconstitutional.

6. Bill Murphy, President of the Crown Hotel Tenants' Union, said that 2-3 blackout days are too many; his girlfriend should be able to come over when she gets off work; and that those keeping the ID's often aren't citizens themselves.

7. Tenant Anthony Faber of the Blackstone Apts. asked what qualifies as a second ID, and said that hotel staff should not be able to hold on to ID's, especially since \$20 is not near the replacement value.

8. Bob Coleman of the Golden Gateway Tenants' Association said he was there in support of the efforts of tenants in residential hotels. Mr. Coleman said that the Policy should state a blanket exemption for caregivers, and suggested that some individuals should have "repetitive visitor status" and be exempt from limitations on visitation.

9. Tenant Regi Meadows of the Alexander Residence said that the proposals give landlords too much power; and that the allowable number of consecutive days per visitor should be determined by the occupants, and not management. Mr. Meadows said that the Commissioners wouldn't accept these restrictions, and asked why occupants of residential hotels should be treated any differently.

10. Henry Karnilowicz, operator of the Sharon Hotel, said that two guests in each room would be a problem in the event of an emergency. Mr. Karnilowicz stated his belief that SRO's are different from apartments, but that operators give decent tenants leeway and the rules are necessary for those who do not act as they should. Mr. Karnilowicz told the Board that ID's are for security, and that it is too easy to forge out of State ID's. Mr. Karnilowicz was on the Committee and urged adoption of the recommendations.

11. Drennen Shelton, Property Manager for City Housing, was a member of the Committee. Ms. Shelton said that compromises came pretty easily, and the recommendations don't just reflect a landlord's or tenant's point of view. Ms. Shelton explained that the restrictions are necessary for the safety of the entire building, because SRO's are a community living situation. Ms. Shelton believes that there are tenants who don't want visitors in the building because they are afraid. Ms. Shelton also said that Dept. of Corrections ID's are easily forged and that cons out on weekend passes are perhaps not the visitors you want at your hotel.

12. Herman Taft, Jr. of City Housing said that you have to hold on to ID's to know who's in the building, and that desk clerks don't recognize out of State ID's. Mr. Taft said that the Jefferson Hotel was on the police blotter every night when he took over as manager, but that there are no longer problems at City Housing hotels.

13. Nick Pagoulatos of St. Peter's Housing Committee said that many issues raised at the Public Hearings are not in the recommendations because of the way that the Committee was convened, and that two of the tenant representatives were

"self-appointed." Mr. Pagoulatos believes that these individuals were advocating for management's side and that this undermined the process. He asked the Commissioners to "keep an open mind" and accept some proposals that aren't in the Committee's recommendations.

14. Tenant Joseph Shipman of the Royan Hotel said that he has been through four fires, and is glad that he had his ID.

15. Tenant Matthew Hammond of the Seneca Hotel objects to the limitations of the policy, especially handing over ID's. Mr. Hammond feels that his word should be enough that his guests are ok.

16. Tenant Lauren of the Winton Hotel said that two visitors at a time during the day aren't enough, since "it's your home." Eight consecutive overnight visits also aren't enough, especially when family comes to visit.

Executive Director Grubb informed the Commissioners that he had contacted Meredith Walters of the Central City SRO Collaborative when he was forming the Committee, and had asked that she provide four tenant representatives. When he had not heard back from her after three weeks, Mr. Grubb appointed two SRO tenants who had contacted him and volunteered. Mr. Grubb felt that there was a general lack of coordination among the SRO Collaboratives in coming up with representatives for the Committee. Mr. Grubb also informed the Board that Wendy Phillips was correct in saying that the Rent Board has agreed to provide translation, if necessary, so that the Visitor Policy can be posted in appropriate languages.

After discussion of the issues raised by the public, the Board identified several areas for further discussion, including: the number of blackout dates, which should fall on actual check days; whether ID's can be retained by hotel staff, and which types of ID's are acceptable; exemption for caregivers; and limitations on guests. This discussion will be continued to the meeting on October 14th.

VI. Communications

The Board received a response to the Memorandum of ALJ in the Golden Gateway case from tenant Thomas Flowers, and a letter to the Editor of the Bay Guardian from Executive Director Joe Grubb in response to an opinion piece by Ted Gullickson of the Tenants' Union.

VII. Director's Report

Mr. Grubb informed the Board that the legislation passed by the Board of Supervisors allowing for "Floating Alternates" would be in effect by the time of the next meeting.

VIII. Remarks from the Public

Regi Meadows told the Board that he hopes that the concerns of SRO tenants voiced at the Public Hearing don't "fall on deaf ears." He also said that disabled individuals shouldn't have to go and greet their guests.

IX. New Business

Commissioner Gruber expressed his concern that the Board had just heard one side of the issues at the Public Hearing, and said that hotel operators have valid security concerns.

X. Calendar Items

September 23, 2003 - NO MEETING

September 30, 2003

9 appeal considerations

Golden Gateway individual appeals (cont. from 9/16/03)

Old Business: Rossoff v. Rent Board (Superior Court Case No. 401226)

New Business: List of Energy Conservation Improvements

XI. Adjournment

Vice-President Marshall adjourned the meeting at 9:20 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71-Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

August 29, 2003

NOTICE OF PUBLIC HEARING

DATE:	September 16, 2003
TIME:	7:30 P.M.
PLACE:	25 VAN NESS AVENUE (AT MARKET ST.) SUITE 70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON THE PROPOSED AMENDMENTS TO THE UNIFORM VISITOR POLICY PURSUANT TO SECTION 41D.6 OF THE ADMINISTRATIVE CODE. INTERESTED PARTIES ARE INVITED TO COMMENT ON THE PROPOSED AMENDMENTS THAT WOULD HELP EFFECTUATE THE GOALS AND REQUIREMENTS OF THIS CHAPTER.

SPEAKERS WILL HAVE TWO (2) MINUTES EACH TO COMMENT ON THE POLICY. COMMENTS MAY ALSO BE MAILED AND SHOULD BE RECEIVED AT THE RENT BOARD NO LATER THAN SEPTEMBER 10, 2003, SO THAT THEY CAN BE MAILED AND RECEIVED BY THE COMMISSIONERS PRIOR TO THE HEARING. COMMENTS ARRIVING AFTER THIS TIME MAY NOT BE RECEIVED IN TIME TO BE ADEQUATELY CONSIDERED.

DOCUMENTS DEPT.

SEP - 3 2003

SAN FRANCISCO
PUBLIC LIBRARY



1 **UNIFORM VISITOR POLICY IN SRO HOTELS**

2 **Proposed Amendments as Recommended**

3 **By the Visitor Policy Committee**

4 **August 26, 2003**

5 Adopted Dec. 5, 2001, amended _____ 2003

6 Amendments are in ***bold italics***, deletions in ~~strikethrough~~.

7 1. No owner or operator of a single room occupancy hotel (SRO) shall
8 deny a guest or occupant of the hotel the right as to:

9 A. ***Day Time Visitors***

- 10 a. To receive visitors between 9:00 a.m. and 9:00 p.m. daily. *And*
11 *A maximum of two (2) day time visitors at a time per*
12 *room may be imposed by management. There is no*
13 *limit on the total number of visitors a tenant may*
14 *have per day, week or month.*
- 15 b. *Children 10 years old and under shall not be counted*
16 *towards the visitor limitation rule. However, a*
17 *maximum of two (2) children per room at a time can*
18 *be imposed by management.*
- 19 c. *Professional service providers shall not be counted*
20 *towards the visitor limitation rule.*

21 B. ***Over Night Guests***

- 22 a. To have eight (8) overnight guests per month, limited to one
23 visitor per tenant per night. *Only tenants who have resided*
24 *in their unit for 32 continuous days or more shall be*
25 *entitled to have overnight guests.*
- 26 b. *For tenancies of two persons per room, each tenant is*
27 *permitted to have eight (8) overnight visitors per*
28 *calendar month, but those tenants will have to reach*
 agreement as to who will have the one (1) visitor per
 night if there is a dispute.
- 29 c. *Tenants are entitled to have a visitor stay eight (8)*
30 *days consecutively in a calendar month.*

31 2. Owners and operators of SROs shall have the right to adopt
32 reasonable rules and regulations to ensure that the visitor rights set forth
33 above do not infringe on the health and safety of the building and/or
34 otherwise interfere with the tenants' right of quiet enjoyment.

- 35 a. *Owners or operators are entitled to request that*
36 *visitors provide identification as follows:*

- 37 1. *Only ONE of the following types of I.D. need be*
38 *provided: A valid and current passport, a California*

1 *Dept. of Motor Vehicles (DMV)-Issued I.D., a
2 Mexican Consular Registration Card or Resident
3 Alien Card, or in the alternative,*

4 *2. For other types of I.D.s, the following must be
5 provided if requested:*

- 6 *a. A valid and current federal or state
7 government agency issued picture I.D., plus,
8 b. Another valid and current I.D.*

9 *3. Owners/managers can require that an I.D. be left
10 with management during the visitor's stay.*

11 *4. A log must be maintained by management and the
12 visitor must sign in and sign out when the I.D. is
13 surrendered and when it is returned.*

14 *5. If the I.D. is lost or misplaced and not returned
15 within 12 hours of the visitor's request to have it
16 returned, the owner/manager shall pay the visitor
17 \$20.00 in cash immediately upon demand by the
18 visitor as compensation for the loss and
19 inconvenience of replacing the lost I.D.*

20 *b. Owners and operators shall have the specific right to restrict
21 visitors on **two (2) of the three check days of each first** month. **Providers are required to post those**
22 **blackout dates at least five (5) days prior to the first**
23 **blackout date on a minimum size of 8 1/2" x 11", to be**
24 **posted prominently by the entrance or in the lobby.** and*

25 *c. Owners and operators may deny visitor rights for 30 days
26 to tenants who are repeat violators of hotel visiting rules. No
27 penalty may be imposed until the second violation. All
28 notices of violation of the policy, including the first
notice, must be in writing with a copy provided to the
tenant.*

1 *d. Tenants who disagree with the imposition of a penalty
2 may either:*

- 3 *1. appeal to the operator or tenant representative (if
4 one is present), or in the alternative,
5 2. the tenant may go directly to the Rent Board for
6 adjudication of their complaint.*

7 *d. Owners and operators shall also have the right to limit the
8 number of nights any single visitor can make to the property to
9 eight (8) per month.*

1 3. Nothing in this section shall interfere with the rights of owners and
2 operators of SROs to exclude specific visitors who willfully or wantonly:

3 A. Disturb the peaceful enjoyment of the premises by other tenants
4 and neighbors, or,

5 B. Destroy, deface, damage, impair, or remove any part of the
6 structure or dwelling unit, or the facilities or equipment used in
7 common.

8 C. ***Tenants who have committed repeated violations of the
9 visitor policy could be construed as creating a nuisance
10 on the property or constituting substantial interference
11 with the comfort, safety or enjoyment of the landlord or
12 tenants, which could be a just cause for eviction under
13 the Rent Ordinance, as determined by the courts.***

14 4. SRO owners or operators shall make available to their tenants a
15 copy of ***any*** written Supplemental Visitor Policy that complies with this
16 policy. SRO owners or operators ~~must prominently post the same Visitor
17 Policy in the lobby, are required to prominently post the Uniform
18 Visitor Policy and any Supplemental Visitor Policy on a
19 minimum size of 8 1/2" x 11" by the entrance or in the lobby.~~

20 5. Other than as a settlement of an unlawful detainer action, a tenant
21 cannot waive the rights as outlined in this legislation. Any agreement
22 between the SRO owner or operator and the tenant that reduces or limits
23 the rights set forth in this legislation shall be deemed void and
24 unenforceable.

25 6. Tenants are accorded certain and specific rights as a result of this
26 legislation. If the SRO owner or operator violates this provision, a tenant
27 will have legal recourse and will be encouraged to visit the San Francisco
28 Rent Stabilization Board ***or the Police, as appropriate.***

29 7. SRO owners or operators seeking a modification of the rights set
30 forth above may file a petition with the San Francisco Rent Stabilization
31 Board and received a hearing on said petition. Notice of the time and
32 date of said hearing shall be prominently posted by the SRO owner or
33 operator above the front desk of the hotel, in the lobby and at least five
34 (5) copies shall be posted on each floor of the building.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
September 30, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level DOCUMENTS DEPT.

AGENDA

SEP 23 2003

- KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

SAN FRANCISCO
PUBLIC LIBRARY

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. New Business
- VI. Old Business

Review of the Commission on the Environment's List of Energy Conservation Improvements

- VII. Consideration of Appeals

A. Golden Gateway

AT030241 thru -61
(cont. from 9/16/03)

Twenty-one tenants individually appeal the decision certifying the costs of voluntary seismic work, two on substantive grounds and the rest on the grounds of financial hardship.

B. 935 Geary #306

AT030297

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

C. 1550 Bay St., Apt. 401

AT030297

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

D. 300 Buchanan St.

AT030281 thru -0293

Thirteen tenants appeal the decision certifying capital improvement costs on the grounds that their PG&E and bond passthroughs are incorrectly calculated.

E. 1081-D Ashbury AT030279

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

F. 106 San Jose Ave. AL030274

The master tenant appeals the decision granting a claim that he charged the subtenants more than their proportional share of the rent.

G. 1310 Jones St. #1202 AL030275

The landlord appeals the decision granting a claim that the PG&E passthrough was incorrectly calculated.

H. 1025 Post #3 AT030276

The tenant appeals the decision denying a claim of unlawful rent increase because the decision was found to be warranted pursuant to Rules Section 6.14.

I. 1347 – 25th Ave. AL030277

The landlord appeals the decision granting a claim of decreased housing services but finding that no rent increase is warranted pursuant to Costa-Hawkins or Rules Sections 1.21 or 6.14.

J. 264 Broad St., Unit 2 AL030280

The landlord appeals the decision granting claims of unlawful rent increase and decreased housing services.

VIII. Communications

IX. Director's Report

X. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

XI. Calendar Items

XII. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, September 30, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT

I. Call to Order

OCT 10 2003

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Becker; Justman; Marshall; Mosbrucker;
Murphy.

Commissioners not Present: Gruber; Lightner; Wasserman.
Staff Present: Lee; Wolf.

Commissioner Mosser appeared on the record at 6:22 p.m. and left the
meeting at 7:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 16, 2003.
(Becker/Murphy: 4-0)

IV. New Business

Review of the Commission on the Environment's List of Energy Conservation
Improvements

Section 37.7(c)(2) of the Ordinance provides that certain qualified energy
conservation improvements and renewable energy improvements shall be certified
as capital improvements at 100% of the cost. Currently, only EPA Energy-Star-
compliant refrigerators where the refrigerator replaced is more than five years old and
where the unit has separate metering qualify for this treatment. The Ordinance also
provides that other such improvements may be approved by the Board of
Supervisors upon recommendation of the Rent Board, following hearings and
recommendations by the Commission on the Environment in an Energy
Conservation Improvements and Renewable Energy Improvements List.

The Commission on the Environment held public hearings and adopted a
suggested List of energy conservation improvements and renewable energy
improvements. Senior Administrative Law Judges Tim Lee and Sandy Gartzman
reviewed this List and revised it in accordance with Rent Ordinance policies and
procedures. Several policy questions for the Rent Board Commissioners were
raised, which were outlined in a Memorandum from Mr. Lee and Ms. Gartzman. Mr.
Lee and Cal Broomhead from the Department on the Environment appeared in
order to answer the Commissioners' questions. After discussion, it was the

consensus of the Commissioners to accept staff's recommendations regarding questions 1-4 in the Memorandum, except to change the amortization period for attic/roof insulation to 20 instead of 10 years. The Board continued consideration of the question of whether future changes to the List should be made without approval of the Board of Supervisors but, rather, by the Rent Board through Rules and Regulations. This issue will be discussed at a future meeting.

V. Old Business

Rossoff v. S.F. Rent Board (Superior Court Case No. 401226)

Senior Administrative Law Judge Tim Lee told the Board that Judge Quidachay granted the Writ filed by the landlord in this case. The landlord's petition for rent increases based on comparable rents had been denied because it was not found that the rents were set low because of a special relationship, fraud, incompetency, or some other reason. Rather, it was found that the rents were low because, at the time they were rented, they were in a state of tremendous disrepair. However, Judge Quidachay cited Ordinance Section 6.11(a)(1), which states that "The provisions of this Section 6.11(a) shall apply only in extraordinary circumstances, including but not limited to situations" where the rents were set low due to one of the qualifying factors set forth above. Since the Judge found the facts of this case to constitute "extraordinary circumstances," the "including but not limited to" language did not preclude a comps increase even though there was no proved special relationship between the parties. Several of the Commissioners voiced a concern that just having low rent could be considered "extraordinary," without there having to be a reason for the rent to have been set low. The Board asked Mr. Lee to draft language to rectify this problem and re-calendar this issue for a future Board meeting.

VI. Consideration of Appeals

A. Golden Gateway

AT030241 thru -61
(cont. from 9/16/03)

The landlord's petition for certification of the costs of voluntary seismic work to 622 units was granted, in part, resulting in passthroughs ranging from \$14.00 to \$27.72 per month. 108 tenants appealed the decision. Most of the tenants were represented by fellow tenant Robert Coleman (the joint appeal); tenant Thomas Flowers filed a substantive appeal on behalf of himself and one other tenant (the Flowers appeal); two tenants filed individual substantive appeals; and seventeen tenants filed appeals on the grounds of financial hardship. At the meeting on September 16th, the Board remanded the joint appeal on one issue and denied the Flowers appeal. The individual appeals were continued due to the lateness of the hour. In her response to the individual appeals, the landlord's attorney stated that the landlord took no position with regard to the hardship appeals and understood that they might be remanded for hearing and determination.

The individual appeals are as follows:

The tenant at 440 Davis Court #801 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 440 Davis Court #814 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 440 Davis Court #1118 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 440 Davis Court #1616 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 50 Ironship Plaza appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 405 Davis Court #1305 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 440 Davis Court #1402 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 155 Jackson #508 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 155 Jackson #908 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenants at 155 Jackson #1002 appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 25 Hinckley Walk appeals the decision on the grounds of financial hardship and maintains that his unit should have been withdrawn from the petition.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 34 Hinckley Walk appeals the decision on the grounds that the Administrative Law Judge did not address the issues presented nor explain his decision.

MSC: To deny the appeal. (Justman/Murphy: 5-0)

The tenant at 550 Battery #1020 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 550 Battery #1120 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 550 Battery #1208 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 550 Battery #1409 appeals the decision, asserting that: the historical cost allowed has been capitalized since 1998, when each payment should have been capitalized at the time of actual payment; and a lower market related interest rate should be used for calculating the amortization schedule.

MSC: To deny the appeal. (Justman/Mosser: 5-0)

The tenant at 550 Battery #2004 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

The tenant at 550 Battery #2008 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosser: 5-0)

B. 935 Geary #306

AT030297

The landlord's petition for certification of capital improvement costs to 60 of 115 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

C. 1550 Bay St., Apt. 401

AT030294

The tenant's appeal was filed over twenty months late because the tenant's retirement income has been severely impacted by the economy and increasing health issues.

MSC: To recuse Commissioner Murphy from consideration of this appeal. (Becker/Marshall: 5-0)

MSC: To find good cause for the late filing of the appeal.
(Becker/Justman: 5-0)

The landlord's petition for certification of capital improvement costs was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 4-0)

D. 300 Buchanan St.

AT030281 thru -0293

The landlord's petition for certification of capital improvement costs to 40 of 60 units was granted, resulting in monthly passthroughs in the amount of \$9.61. Thirteen tenants appeal the decision on the grounds that the PG&E and bond passthroughs are incorrectly calculated. The tenant in unit #408 also raises several allegations of decreased housing services.

MSC: To deny the appeals without prejudice to the tenants' filing tenant petitions challenging the PG&E and bond passthroughs, and raising any decreased housing services claims that they may have. (Murphy/Justman: 5-0)

E. 1081-D Ashbury

AT03027

The tenant's appeal was filed over two months late because of medical difficulties the tenant was experiencing.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The landlords' petition for certification of the cost of a new roof to 3 of 11 units was granted, resulting in a monthly passthrough in the amount of \$13.99. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Murphy: 5-0)

F. 106 San Jose Ave.

AL030274

The subtenants' petition alleging that the master tenant charged them more than their proportional share of the rent for the unit was granted and the master tenant was

found liable to the subtenants for rent overpayments. A claim of decreased housing services was denied. The master tenant appeals the decision, asserting that: two of the subtenants have the use of more space than that accessed by the other occupants of the unit; the master tenant did not have exclusive use of the living room until April 1, 2003; some of the subtenants did not fulfill their rental obligation to the master tenant; the subtenants failed to meet their burden of proving that they paid excess rent; one of the subtenants agreed that the master tenant only needed to pay a \$35 storage charge when he was out of the country; the square footage calculations of room sizes used in the decision are incorrect; and a prior tenant's security deposit should be accounted for in the calculations.

MSC: To deny the appeal. (Murphy/Mosser: 5-0)

G. 1310 Jones St. #1202

AL030275

The tenant's petition alleging improper calculation of a PG&E passthrough was granted and the passthrough was determined to be void. On appeal, the landlord provides documentation to prove the base year calculation upon which the passthrough was based.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the issue of the PG&E passthrough; a hearing will be held only if necessary. Any PG&E passthrough amounts found to be warranted shall be owed by the tenant prospectively only. (Murphy/Justman: 3-1; Marshall dissenting)

H. 1025 Post #3

AT030276

The tenant's petition alleging an unlawful increase in rent was denied because the Administrative Law Judge found that the increase was warranted pursuant to Section 6.14 of the Rules and Regulations. On appeal, the tenant claims that: the proposed rent increase presents her with a financial hardship; the landlord knew that she was residing at the unit for over 1-1.2 years; her mother did not put her name on the estoppel certificates because she was paranoid that the rent would be increased; and the landlord contradicted himself several times at the hearing.

After discussion, consideration of this appeal was continued to the next meeting, due to the lack of a voting majority.

I. 1347 – 25th Ave.

AL030277

The landlords' petition seeking a determination pursuant to Rules Sections 6.14, 1.21 and Costa-Hawkins was denied. The Administrative Law Judge found that although the original tenant had vacated the subject unit, the current occupant is a lawful subtenant who resided in the unit prior to January 1, 1996 and that a 6.14 notice was not timely served upon him. The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$8,520.00 due to worn out carpeting and a defective stove and refrigerator. The landlords appeal the decision, claiming that: there is no evidence that the tenant was living at the premises at the time the 1997 rental agreement was executed; the landlords' 6.14 notice should presume to have been received by the tenant; the Rent Board does not have jurisdiction over "substantial damage" claims; there is no quantifiable standard as to the value of the decreased

services; and the landlords were denied their right to a jury trial and an opportunity to have the matter heard in civil court.

After discussion, consideration of this appeal was continued to the next meeting, when there will be more Commissioners in attendance.

J. 264 Broad St., Unit 2

AL030280

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$2,065.00 for rent overpayments. Additionally, claims of decreased housing services in this residential hotel were granted, in part, and the landlord was found liable to the tenant in the amount of \$2,356.00 due to habitability problems on the premises. On appeal, the landlord asserts that: the landlord was entitled to enter into a new lease agreement at a higher rent after the original tenant vacated the unit pursuant to Rules Section 6.14; the tenant was furnished with an electric space heater; the defects complained of by the tenant were not cited by the building inspector; and the tenants contributed to the unsanitary condition of the premises.

MSC: To deny the appeal. (Becker/Murphy: 4-0)

VII. Communications

The Board received an e-mail from tenant Brian Browne of 550 Battery #1409 (AT030257) regarding his appeal.

VIII. Calendar Items

October 7, 2003 - NO MEETING (Election Day)

October 14, 2003

12 appeal considerations (2 cont. from 9/30/03)

Old Business:

- A. List of Energy Conservation Improvements
- B. Rossoff v. Rent Board: Proposed Amendments to Rules Section 6.11
- C. Uniform Visitor Policy for Residential Hotels

IX. Adjournment

Vice-President Marshall adjourned the meeting at 8:01 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

Tuesday, 6:00 p.m.,
October 14, 2003

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

DOCUMENTS DEPT.

OCT 10 2003

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Old Business
 - A. Review of the Commission on the Environment's List of Energy Conservation Improvements
 - B. Rossoff v. Rent Board: Proposed Amendments to Rules Section 6.11

VI. Consideration of Appeals

- A. 706 Gonzalez Dr. AT030305

The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

- B. 150 Font 11-M AT030306

The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

- C. 430 – 9th Ave. #3 & #11 AT030303 & -03

Two tenants appeal the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

- D. 825 Jones St. # 5 & #6 AT030295 & -96

Two tenants appeal the decision certifying capital improvement costs on substantive grounds as well as financial hardship.

E. 161 Powell St. #202

AL030299

The landlord appeals the decision granting rent reductions due to decreased housing services.

F. 3116 – 16th St. #4

AT030300

The tenant appeals the decision denying a claim of decreased housing services.

G. 1678 Great Highway

AT030301

The tenant appeals the decision denying a claim of unlawful rent increase but granting a claim of decreased housing services.

H. 4295 – 24th St.

AT030308

The tenants in one unit appeal the decision certifying capital improvement costs.

I. 855 Sacramento #339

AT030307

The tenant appeals the decision determining that his rent is a lawful amount.

J. 3323 Broderick St.

AT030304

The tenant appeals the decision certifying capital improvement costs.

K. 1025 Post #3

AT030276

(cont. from 9/30/03)

The tenant appeals the decision denying a claim of unlawful rent increase.

L. 1347 – 25th Ave.

AL030277

(cont. from 9/30/03)

The landlord appeals the decision finding that no rent increase is warranted pursuant to Rules Section 6.14 and granting a claim of decreased housing services.

VII. Communications

VIII. Director's Report

V. Old Business (cont.)

C. Proposed Amendments to the Uniform Visitor Policy for Residential Hotels

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, October 14, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

OCT 23 2003

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Wasserman called the meeting to order at 6:11 p.m.

II. Roll Call

KHIN MAI AUNG LARRY BEACH BECKER DAVID GUSTAV GRUBER FREDERICK HOBSON ANTHONY JUSTMAN MERRIE T. LIGHTNER NEVEO MOSSER BARTHOLOMEW MURPHY	Commissioners Present:	Becker; Gruber; Lightner; Marshall; Mosbrucker; Wasserman.
	Commissioners not Present:	Mosser; Murphy.
	Staff Present:	Grubb; Lee; Wolf.

Commissioner Justman appeared on the record at 6:20 p.m. Commissioner Marshall left the meeting at 8:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 30, 2003 with the following correction: on page 2, under "Review of the Commission on the Environment's List of Energy Conservation Improvements", the Board's recommended change of the amortization period for attic and roof insulation should also include wall insulation. (Becker/Marshall: 4-0)

IV. Old Business

A. Review of the Commission on the Environment's List of Energy Conservation Improvements

The Board continued their discussion of the Commission on the Environment's List of Energy Conservation Improvements (Ordinance Section 37.7(c)(2) with Senior Administrative Law Judge Tim Lee. Mr. Lee informed the Board that their decision to extend the amortization period for attic/roof and wall insulation from 10 to 20 years would be inconsistent with the amortization period for ceiling insulation found in Ordinance Sections 37.7(c)(4)(A)(i) and 37.7(c)(5)(A)(ii). However, since energy conservation is a separate basis for passthrough under the Ordinance and 20 years appears to be a more accurate estimated life of the improvement, the Commissioners chose to stay with their decision to amortize these improvements over a 20-year period. The Board again continued discussion of whether future changes to the List should be made without approval of the Board of Supervisors but, rather, by the Rent Board through Rules and Regulations, in order for the Tenant Commissioners to receive input from the Tenant Community.



B. Rossoff v. S.F. Rent Board: Proposed Amendments to
Rules Section 6.11

At the Board meeting on September 30th, Senior Administrative Law Judge Tim Lee informed the Board that Judge Quidachay granted the landlord's writ. The Judge noted that since Section 6.11(a)(1) refers to extraordinary circumstances "including, but not limited to" the specified circumstances set forth in the Section, the regulation must be read expansively and not restrictively. Since such an expansive interpretation was not the intent of the Board in adopting the regulation, the Commissioners asked staff to draft an amendment to address the court's concern with the existing language of the regulation, which follows below (strikethrough for deletions and double underline for additions):

(a) Petition Based on Extraordinary Circumstances

(1) The provisions of this Section 6.11(a) shall apply only in ~~extraordinary circumstances, including but not limited to the following situations:~~

(A) where, because of a special relationship between the landlord and tenant, or through ~~due to~~ fraud, mental incompetency, or ~~some other reason~~ ~~extraordinary circumstances unrelated to market conditions~~, the initial rent on a unit was set very low or the rent was not increased or was increased only negligible amounts during the tenancy; or

(B) where the landlord became owner of record of a Proposition I Affected Unit between September 1, 1993 and December 22, 1994, or where the landlord entered into an agreement to purchase a Proposition I Affected Unit which agreement became non-contingent on or after September 1, 1993 and before November 9, 1994, and, in becoming owner of record or entering into the purchase agreement, the landlord relied on the ability to increase rents without limitation from the Rent Ordinance.

Passage of Proposition I at the November 1994 election does not in and of itself satisfy this Section 6.11(a)(1), though it may be considered.

MSC: To put the proposed amendments to Rules and Regulations Section 6.11(a)(1) regarding comparables rent increases out for Public Hearing. (Marshall/Becker: 3-2; Gruber, Lightner dissenting)

A Public Hearing on the proposed amendment will be held on Tuesday, November 18th. An Executive Session concerning the Rossoff case will be held on that date as well.

C. Proposed Amendments to the Uniform Visitor Policy for Residential Hotels

In accordance with the requirement that the Rent Board review the provisions of the Uniform Visitor Policy on an annual basis, three Public Hearings were held. As a result of concerns raised by tenants at those hearings, Executive Director Grubb convened a Committee to suggest possible amendments to the Visitor Policy. The Visitor Policy Committee met four times and consisted of four landlord representatives, four tenant representatives, one neutral and Mr. Grubb. A majority of the members reached agreement on all issues that were raised by the public at

the Public Hearings, and the Committee came up with a list of proposed amendments to the Visitor Policy that were put out for Public Hearing.

At the Public Hearing on September 16th, 16 individuals commented on the proposed amendments. After discussion of the issues raised by the public, the Board identified several areas for further discussion, including: the number of blackout dates, which should fall on actual check days; whether ID's can be retained by hotel staff, and which types of ID's are acceptable; exemption for caregivers; and limitations on guests. At this evening's meeting, the Board made several changes to the proposed amendments, including: specifying that professional and/or necessary service providers shall not be counted toward the visitor limitation rule; providing that guest requests may be made no later than 7:00 p.m. on the same day; increasing the fine for losing an I.D. from \$20.00 to \$75.00; specifying that visitors can be restricted on 2 of the 3 actual check days each month; requiring that the Visitor Policy and any Supplemental Visitor Policy be posted on a minimum size of 11 x 17" by the entrance or in the lobby; and specifying that translation of the Visitor Policy in the predominant languages will be provided by the Rent Board on an as-needed basis.

MSC: To adopt the Proposed Amendments to the Uniform Visitor Policy in SRO Hotels as recommended by the Visitor Policy Committee, as amended. (Gruber/Marshall: 5-0)

V. Consideration of Appeals

Commissioner Becker was recused by acclamation from consideration of the first two appeals.

A. 706 Gonzalez Dr.

AT030305

The landlord's petition for rent increases based on increased operating expenses was granted. The tenant appeals the decision on the grounds of financial hardship.

MSF: To deny the appeal. (Lightner/Gruber: 2-3; Marshall, Mosbrucker, Wasserman dissenting)

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Mosbrucker: 4-1; Lightner dissenting)

B. 150 Font 11-M

AT030306

The tenant's appeal was filed almost one year late because the tenant thought she had filed a hardship appeal at the time the decision was issued.

MSC: To find good cause for the late filing of the appeal. (Lightner/Justman: 5-0)

The landlord's petition for rent increases based on increased operating expenses was granted. The tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Lightner/Marshall: 5-0)

C. 430 – 9th Ave. #3 & #11

AT030302 & -03

The landlord's petition for rent increases to 3 of 12 units based on increased operating expenses was granted. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #3 and remand the case for a hearing on the tenant's claim of financial hardship.
(Becker/Mosbrucker: 3-2; Gruber, Lightner dissenting)

MSC: To accept the appeal of the tenant in unit #11 and remand the case for a hearing on the tenant's claim of financial hardship and to check the tenant's rent history. (Becker/Mosbrucker: 5-0)

D. 825 Jones St. #5 & #6

AT030295 & -96

The landlord's petition for certification of capital improvement costs to 9 of 18 units was granted, in part, resulting in monthly passthroughs in the amount of \$57.61. The tenant in unit #5 appeals the decision on the grounds of financial hardship, in addition to asserting that: the new laundry room is an unnecessary luxury item since there is a large commercial laundromat directly across the street; the building is in need of other capital improvements, such as new wiring; the interior paint job is overpriced and the work was poorly performed; and the new carpet is worse than the one that it replaced. The tenant in unit #6 appeals on the grounds that: the landlord is attempting to turn the building into luxury apartments to appeal to a wealthier class of tenants, and thus overspent on the work; all of the improvements except for the seismic retrofit work were unnecessary; and the landlord lied to the Administrative Law Judge about the character of the alleged capital improvements.

MSC: To accept the appeal of the tenant in unit #5 and remand the case for a hearing on the tenant's claim of financial hardship only.
(Lightner/Gruber: 3-2; Becker, Mosbrucker dissenting)

The appeal of the tenant in unit #6 was continued to the next meeting so that staff could contact the tenant and attempt to obtain more information regarding his financial circumstances.

E. 161 Powell St. #202

AL030299

The tenant's petition alleging decreased housing services in this residential hotel was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,590.00. On appeal, the landlord claims that: the rent reduction granted for a reduction in the size of the tenant's room is excessive due to an inaccurate mathematical calculation and in light of the other housing services provided by the landlord to the tenant; the rent reduction for the inoperative elevator is excessive and elevator service was restored as of June 18, 2003; and the rent reduction granted for the lack of heat is excessive considering the amount of rent paid by the tenant.

MSC: To deny the appeal except to remand the case to the Administrative Law Judge on the record to discontinue the rent reduction for the inoperative elevator as of the date the service was restored. (Becker/Justman: 5-0)

F. 3116 – 16th St. #4

AT030300

The tenant's appeal was filed 3 days late because the tenant is not a native English speaker.

MSC: To find good cause for the late filing of the appeal.
(Becker/Gruber: 5-0)

The tenant's petition alleging decreased housing services was denied because the Administrative Law Judge found that the noise coming from an upstairs unit was not unreasonable in a building occupied by families. On appeal, the tenant claims that: the Administrative Law Judge failed to consider evidence introduced by the tenant at the hearing; testimony from a witness who does not reside at the building should not have been considered; and a habitability problem raised by the tenant was not addressed in the decision.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

G. 1678 Great Highway

AT030301

The tenants' petition alleging an unlawful rent increase was denied because the Administrative Law Judge found that the increase was warranted pursuant to Costa-Hawkins. However, a claim of decreased housing services due to lack of heat was granted, and the landlord was found liable to the tenants in the amount of \$1,700.00. On appeal, the tenants claim that: the proposed rent increase is for more than market value, showing that the landlord's intent is to evict the tenants; the original tenant has been away from the premises temporarily due to family obligations and plans to return to the subject unit when his grandson begins high school next year; and the Administrative Law Judge failed to consider the fact that the original tenant is a disabled senior citizen who will be displaced from his home.

MSC: To recuse Commissioner Becker from consideration of this appeal.
(Marshall/Gruber: 5-0)

MSC: To deny the appeal. (Lightner/Gruber: 3-2; Marshall, Mosbrucker dissenting)

H. 4295 – 24th St.

AT030308

The landlords' petition for certification of capital improvement costs and rent increases based on increased operating expenses to 5 units was granted. The tenants in one unit appeal certification of the costs of the new electrical service, asserting that there has been no improvement in electrical power or service to their unit and they have derived no benefit from this work.

MSC: To deny the appeal. (Lightner/Justman: 5-0)

I. 855 Sacramento #339

AT030307

The tenant filed a petition asking for a determination as to whether his rent is a lawful amount. The Administrative Law Judge found the rent the tenant was paying to be lawful. On appeal, the tenant submits a copy of a cashier's check for six days' rent and a notice from management of the hotel stating that the tenant is in arrears on his rent.

MSC: To deny the appeal. (Gruber/Lightner: 3-2;
Becker, Marshall dissenting)

J. 3323 Broderick St.

AT030304

The landlords' petition for certification of capital improvement costs to one of two units was granted, in part, resulting in a monthly passthrough in the amount of \$73.90. On appeal, the tenant maintains that: the garage door had to be replaced; the water heater was moved in order to make room for a second parking space for a lower unit; the water pressure restrictor valves provided no benefit to her unit; the tenants in the building have no access to the activity room; the claimed work constituted maintenance; and the tenant did not know which items were being petitioned for.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

K. 1347 – 25th Ave.

AL030277

The landlords' petition seeking a determination pursuant to Rules Sections 6.14, 1.21 and Costa-Hawkins was denied. The Administrative Law Judge found that although the original tenant had vacated the subject unit, the current occupant is a lawful subtenant who resided in the unit prior to January 1, 1996 and that a 6.14 notice was not timely served upon him. The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$8,520.00 due to worn out carpeting and a defective stove and refrigerator. The landlords appeal the decision, claiming that: there is no evidence that the tenant was living at the premises at the time the 1997 rental agreement was executed; the landlords' 6.14 notice should presume to have been received by the tenant; the Rent Board does not have jurisdiction over "substantial damage" claims; there is no quantifiable standard as to the value of the decreased services; and the landlords were denied their right to a jury trial and an opportunity to have the matter heard in civil court.

MSC: To deny the appeal. (Becker/Mosbrucker: 3-2;
Gruber, Lightner dissenting)

VI. Communications

The Commissioners received a Pending Litigation Status Report and an e-mail regarding the Baba v. Rent Board case from Senior Administrative Law Judge Tim Lee.

VII. Director's Report

Executive Director Grubb informed the Board that the new bond passthrough calculation sheet has been prepared.

VIII. Calendar Items

October 21, 2003 - NO MEETING

October 28, 2003

11 appeal considerations (1 cont. from 10/14/03)
Old Business: List of Energy Conservation Improvements

IX. Adjournment

President Wasserman adjourned the meeting at 8:45 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
October 28, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

AGENDA

OCT 23 2003

- | | | |
|---------------------|------------------------------|---------------------------------|
| KHIN MAI AUNG | I. Call to Order | SAN FRANCISCO
PUBLIC LIBRARY |
| LARRY BEACH BECKER | II. Roll Call | |
| DAVID GUSTAV GRUBER | III. Approval of the Minutes | 10-23-03A10:21 RCV'D |
| FREDERICK HOBSON | | |
| ANTHONY JUSTMAN | | |
| MERRIE T. LIGHTNER | IV. Remarks from the Public | |
| NEVEO MOSSER | | |
| BARTHOLOMEW MURPHY | | |

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- | | |
|---|--------------|
| V. Consideration of Appeals | |
| Å. 1096 Pine St. #303 | AT030319 |
| The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship. | |
| B. 150 Franklin #407 | AT030312 |
| The tenant appeals the Minute Order certifying capital improvement costs on the grounds of financial hardship. | |
| C. 1077#C & 1081-D Ashbury | AT0310 & -11 |
| Two tenants appeal the decision certifying capital improvement costs on hardship; one tenant also appeals on substantive grounds. | |
| D. 935 Geary #603 | AT030314 |
| The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship. | |
| E. 333 Garces Dr. | AT030318 |
| The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship. | |
| F. 1268 – 5 th Ave. | AL030309 |



The landlord appeals the decision partially certifying capital improvement costs.

G. 2361 Mission St. AT030315

The tenant appeals the decision denying a claim of decreased housing services.

H. 1356 So. Van Ness Ave. #202 AL030313

The landlord appeals that portion of the decision finding that the garage is a housing service and determining rent overpayments.

I. 4650-54 – 18th St. AL030316

The landlord appeals the decision denying a Petition for Extension of Time to do Capital Improvement Work.

J. 830 Hyde St. #1 AL030317

The landlord appeals the decision granting a claim of decreased housing services.

K. 825 Jones #6 AT030296
(cont. from 10/14/03)

The tenant appeals the decision certifying capital improvement costs on financial hardship and substantive grounds.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71-Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

AMENDED NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
October 28, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

OCT 23 2003

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

SAN FRANCISCO
PUBLIC LIBRARY

10-23-03 A10:18 RCVD

- NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.
- V. Consideration of Appeals
 - Å. 1096 Pine St. #303 AT030319
The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.
 - B. 150 Franklin #407 AT030312
The tenant appeals the Minute Order certifying capital improvement costs on the grounds of financial hardship.
 - C. 1077#C & 1081-D Ashbury AT0310 & -11
Two tenants appeal the decision certifying capital improvement costs on hardship; one tenant also appeals on substantive grounds.
 - D. 935 Geary #603 AT030314
The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.
 - E. 333 Garces Dr. AT030318
The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.
 - F. 1268 – 5th Ave. AL030309



The landlord appeals the decision partially certifying capital improvement costs.

G. 2361 Mission St. AT030315

The tenant appeals the decision denying a claim of decreased housing services.

H. 1356 So. Van Ness Ave. #202 AL030313

The landlord appeals that portion of the decision finding that the garage is a housing service and determining rent overpayments.

I. 4650-54 – 18th St. AL030316

The landlord appeals the decision denying a Petition for Extension of Time to do Capital Improvement Work.

J. 830 Hyde St. #1 AL030317

The landlord appeals the decision granting a claim of decreased housing services.

K. 825 Jones #6 AT030296
(cont. from 10/14/03)

The tenant appeals the decision certifying capital improvement costs on financial hardship and substantive grounds.

VI. Communications

VII. Director's Report

VIII. Old Business

List of Energy Conservation Improvements

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, October 28, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

I. Call to Order

NOV - 4 2003

KHIN MAI AUNG

LARRY BEACH BECKER

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Becker; Gruber; Justman; Marshall;
Mosbrucker; Wasserman.

Commissioners not Present: Lightner; Mosser.
Staff Present: Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 14, 2003.
(Becker/Gruber: 4-0)

IV. Remarks from the Public

James Millar, attorney for the landlord in the case at 1356 South Van Ness #202 (AL030313), informed the Commissioners that he and his client were in attendance.

V. Consideration of Appeals

A. 1356 So. Van Ness Ave. #202 AL030313

The tenant's petition alleging unlawful increases in rent and decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$5,205.00 due to rent overpayments and \$892.50 based on removal of access to the garage. The landlord appeals only as to the garage issue, claiming that: use of the garage was not a housing service included as part of the base rent at the inception of the tenancy; use of the garage was not promised to the tenant, and had only been allowed as a favor; and the rent reduction granted for loss of the garage was excessive.

MSC: To deny the appeal. (Marshall/Becker: 3-1; Gruber dissenting)

B. 1096 Pine St. #303



The tenant's appeal was filed two months late because the tenant incorrectly received a Memorandum advising him that he could file a hardship appeal at any time, pursuant to the Ammiano amendments.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 4-0)

The landlords' petition for certification of capital improvement costs to 14 of 16 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

C. 150 Franklin #407

AT030312

The tenant's appeal was filed 8-1/2 months late because the Minute Order he received did not have language informing him of his right to file a hardship appeal.

MSC: To find good cause for the late filing of the appeal.
(Becker/Marshall: 5-0)

The landlord's petition for certification of capital improvement costs was granted pursuant to a Minute Order. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

D. 1077 #C & 1081-D Ashbury

AT030310 & -11

The landlords' petition for certification of capital improvement costs was granted. Two tenants appeal the decision on the grounds of financial hardship. The tenant in unit 1081-D also maintains that all of the roofs were painted/waterproofed but covered up with tile, for which there was no need.

MSC: To accept the appeal of the tenant in unit #1081-D and remand the case for a hearing on the financial hardship claim; to deny the appeal as to all other issues. (Becker/Marshall: 5-0)

MSC: To accept the appeal of the tenant in unit #1077-C and remand the case for a hearing on the tenant's claim of financial hardship.
(Marshall/Becker: 5-0)

E. 935 Geary #603

AT030314

The landlord's petition for certification of capital improvement costs to 60 of 114 units was granted. One tenant appeals the decision on the grounds of financial hardship.

It was the consensus of the Board to continue consideration of this appeal in order for staff to contact the tenant and obtain a more completely filled out Hardship Application.

F. 333 Garces Dr.

AT030318

The tenant's appeal was filed over one year late because the tenant did not realize the repercussions of the rent increase until receiving her lease renewal, when the operating and maintenance expense increase was first assessed.

MSC: To recuse Commissioner Becker from consideration of this appeal.
(Marshall/Becker: 5-0)

MSC: To find good cause for the late filing of the appeal.
(Marshall/Justman: 5-0)

The landlord's petition for rent increases based on increased operating expenses in this multi-unit complex was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Mosbrucker: 5-0)

G. 1268 – 5th Ave.

AL030309

The landlords' petition for certification of capital improvement costs to 4 of 5 units was granted, in part. On appeal, the landlords assert that: contrary to the statement of the Administrative Law Judge in the decision, the landlord did not withdraw two items from the petition; the cost of scaffolding should be allowed; the painting of windows on the east wall of the building and replacement of a bathroom window pane were capital improvements and not repairs; and interior painting of an apartment and replacement of window sashes and 2 of 5 flights of stairs and 3 of 5 landings should be considered capital improvements.

MSC: To accept the appeal and remand the case on the record to certify the cost of the scaffolding; to deny the appeal as to all other issues without prejudice to the landlord's filing a petition based on increased operating expenses, if appropriate.
(Murphy/Becker: 4-1; Gruber dissenting)

H. 2361 Mission St.

AT030315

The tenant's petition alleging a substantial decrease in housing services due to the presence of bed bugs in this residential hotel was denied. On appeal, the tenant claims that: the Judge based her decision on hearsay evidence; the landlord's witnesses perjured themselves at the hearing; he has evidence of a cover-up concerning the problem; he withdrew his petition at the hearing and no decision should have been issued; and the Administrative Law Judge exhibited bias against the tenants and is prejudiced against African-Americans.

MSC: To deny the appeal. (Gruber/Justman: 5-0)

I. 4650-54 – 18th St.

AL030316

The landlords filed three petitions requesting an extension of time to complete capital improvement work on one unit in each of three separate adjoining buildings. The petitions were denied because the landlords did not file the petition for extension of time until after the notices to vacate were issued, although they knew that the work would take longer than three months well before that time. The landlords' estimate of the time required to do the work was, however, found to be

reasonable. The landlords appeal, maintaining that: the decision is unjust because the tenants were not prejudiced by the filing of the petitions after the notice to vacate had been served; Rules Section 1.215(e)(1) should be directory, and not mandatory; if mandatory, the requirement is unconstitutional because it impermissibly regulates procedural issues relating to eviction; the regulation only provides for a determination as to whether the extended time estimate is reasonable, and does not require that the petition be granted or denied; and landlords would have to file multiple petitions because they usually do not know how long the work will take prior to issuing the notice to vacate.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Gruber, Murphy dissenting)

J. 830 Hyde St. #1

AL030317

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$823.75 due to habitability problems on the premises. On appeal, the landlord claims that: the tenant agreed to forego having a heat source in the unit in exchange for the landlord partitioning the studio apartment; there are factual inaccuracies in the decision; the tenant would not have been able to pay the PG&E bills if a heater had been installed in the unit; the rent reduction for lack of heat does not take into account seasonal fluctuations; the landlord did not receive several of the notices the tenant claimed to have sent regarding the malfunctioning toilet; and the tenant was uncooperative in providing access to the unit in order for the landlord to repair the toilet.

MSC: To deny the appeal. (Becker/Marshall: 4-1; Gruber dissenting)

K. 825 Jones #6

AT030296
(cont. from 10/14/03)

The landlord's petition for certification of capital improvement costs to 9 of 18 units was granted, in part, resulting in monthly passthroughs in the amount of \$57.61. The tenant in unit #6 appeals on the grounds that: the landlord is attempting to turn the building into luxury apartments to appeal to a wealthier class of tenants, and thus overspent on the work; all of the improvements except for the seismic retrofit work were unnecessary; and the landlord lied to the Administrative Law Judge about the character of the alleged capital improvements. The tenant augmented his appeal with an additional claim of financial hardship. The appeal was continued from the meeting on October 14th in order for staff to contact the tenant and attempt to obtain more information regarding his financial circumstances.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship only. (Marshall/Becker: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the office workload statistics for the month of September and a final copy of the revised Visitor Policy for Residential Hotels.

VII. Director's Report

Executive Director Grubb informed the Board that, in conjunction with the decreased workload, several of the Administrative Law Judges have been conducting hearings for other City agencies. The departments are billed for Rent Board staff's services. These include litter abatement hearings for the Department of Public Works, a wage compliance hearing for the Office of the City Administrator, and Comcast hearings for the Office of Administrative Services. The new Alternative Dispute Resolution Program has generated five petitions thusfar.

VIII. Old Business

List of Energy Conservation Improvements

Discussion of this issue was continued to the next meeting.

IX. Calendar Items

November 4 & 11, 2003 - NO MEETINGS

November 18, 2003

11 appeal considerations (1 cont. from 10/28/03)

Executive Session: Rossoff v. Rent Board (Sup. Ct. Case No. 401226)

6:30

Public Hearing:

Proposed Amendments to Rules Section 6.11 (Comparables)

Old Business: List of Energy Conservation Improvements

XI. Adjournment

President Wasserman adjourned the meeting at 7:07 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71-Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title 11 of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, 6:00 p.m.,
November 18, 2003

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

~~NOV - 3 2003~~

AGENDA

DOCUMENTS DEPT.

~~SAN FRANCISCO
PUBLIC LIBRARY~~

- | | | |
|------|-------------------------|---------------------------------|
| I. | Call to Order | NOV - 4 2003 |
| II. | Roll Call | SAN FRANCISCO
PUBLIC LIBRARY |
| III. | Approval of the Minutes | |
| IV. | Remarks from the Public | 11-04-03A11:28 RCV'D |

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- | | |
|-------|--|
| V. | Vote on Whether to Go Into Closed Session Regarding the Case of <u>Rossoff v. Rent Board</u> (Superior Court Case No. 401226)
(Pursuant to S.F. Administrative Code Section 67.11(a)) |
| VI. | Closed Session re <u>Rossoff</u> , supra
(Pursuant to Government Code Section 54956.9(a)) |
| VII. | Vote on Whether or Not to Disclose and Possible Disclosure of Any/All Conversations Held in Closed Session Regarding <u>Rossoff</u> , supra
(Pursuant to S.F. Administrative Code Section 67.11(a)) |
| VIII. | Report on Any Actions Taken in Closed Session Regarding <u>Rossoff</u> , supra (Pursuant to Government Code Section 54957.1(a)(2) and S.F. Administrative Code Section 67.14(b)(2)) |
| IX. | Consideration of Appeals |

A. 405 Serrano Dr. #5d AT030323

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 1080 Post St. #12 AT030329

The tenants in one unit appeal the decision certifying capital improvement costs on the grounds of financial hardship.

C. 3655 Vicente, Apt. #2 AL030327

The landlord appeals the remand decision granting an appeal based on financial hardship.

D. 486 Funston #302 AT030328

The tenant appeals the decision certifying capital improvement costs and asks to be allowed to untimely elect the 100% passthrough option.

E. 520 S. Van Ness #379 AL030320

The landlord appeals the decision granting a claim of decreased housing services due to the residential hotel's violation of the provisions of the Uniform Visitor Policy.

F. 1847 – 46th Ave. AL030322

The landlord appeals the decision granting a claim of unlawful rent increases.

G. 1408 California St. AT030321

The tenant appeals the decision denying a claim of decreased housing services.

H. 22 Ashbury St. AL030324

The landlord appeals the decision granting a claim of decreased housing services.

I. 147 Stillman St. AT030325 & -26

The tenants in two units appeal the decision granting rent increases based on comparable rents.

J. 537 Fillmore #2 AL030330

The landlord appeals the decision granting a claim of unlawful rent increases on the garage.

K. 935 Geary #603 AT030314
(cont. from 10/28/03)

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

X. Public Hearing

6:30 Rossoff v. Rent Board: Proposed Amendments to Rules Section 6.11 Regarding Comparables Rent Increases

XI. Communications

XII. Director's Report

XIII. Old Business

Review of the Commission on the Environment's List of Energy Conservation Improvements

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

XIV. New Business

XV. Calendar Items

XVI. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, November 18, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

I. Call to Order

KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Commissioner Becker called the meeting to order at 6:11 p.m.

DEC - 2 2003

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Becker; Gruber; Mosbrucker; Mosser.
Commissioners not Present: Lightner, Wasserman.
Staff Present: Grubb; Lee; Wolf.

Commissioner Murphy appeared on the record at 6:21 p.m.; Commissioner Justman arrived at the meeting at 6:30 p.m.; and Commissioner Marshall appeared at 7:25. Commissioner Justman went off the record at 8:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 28, 2003.
(Gruber/Mosbrucker: 4-0)

IV. Remarks from the Public

A. Michael Rossoff made remarks concerning his case, which will be discussed in Executive Session. Mr. Rossoff said that his case was remanded by the Superior Court because extraordinary circumstances sufficient to warrant a comparables increase were found, and this should occur. Mr. Rossoff pointed out that even the tenant's expert found that the rents were not set at market at the inception of the tenancies. He said that the sales price for the property was predicated on its obtaining a comps increase and a retroactive change in the law would be unfair.

B. Landlord Jeffrey Katz of 1080 Post St. (AT030329) said that his purchase price for the building reflected the rent levels and that the granting of an untimely hardship appeal could jeopardize his ability to maintain the building.

C. Robert Pender distributed the latest Parkmerced Residents' Organization (PRO) newsletter, and said that there will be a meeting on Saturday. Mr. Pender supports the efforts of a developer to build 185 new units on Brotherhood Way and appreciates the break in attending Rent Board hearings.

D. Katy Meador, the landlord at 537 Fillmore #2 (AL030330), told the Board that the tenant had desperately wanted the only garage in the building. Since the garage was always dealt with separately, was on a separate lease, and garages



weren't available to all tenants in the building, the landlord thought that the garage was not covered by rent control. Ms. Meador would have preferred it if the tenant had come to her, and said that the decision presents a hardship.

E. Tenant Harry Campbell of 1408 California St. (AT030321) told the Board that he had no problems with his landlord until Skyline Realty took over. Mr. Campbell described a "dreadful" situation with a non-functioning toilet for 15 months. Mr. Campbell found the Administrative Law Judge's conclusion that he had sabotaged his own toilet "appalling," and asked that the Board hold the landlord responsible for their actions and remedy an injustice.

F. Tenant Cromer Jenkins of 147 Stillman St. (AT030325 & -26) said that the other units used for comparison in his landlord's comparables petition didn't reflect the condition of his unit, and that no rent increases should be allowed until repairs get made.

V. Vote on Whether to Go Into Closed Session Regarding the Case of Rossoff v. Rent Board (Superior Court Case No. 401226) Pursuant to S.F. Administrative Code Section 67.11{a}

MSC: To go into Closed Session. (Marshall/Lightner: 5-0)

MSC: To recuse Commissioners Gruber and Mosser from the Closed Session. (Murphy/Justman: 5-0)

VI. Closed Session re Rossoff, supra, Pursuant to Government Code Section 54956.9{a}

The Board went into Closed Session from 6:25 to 7:10 p.m. with Deputy City Attorneys Rafal Ofierski and Marie Blits to discuss the case of Rossoff v. Rent Board (Superior Court Case No. 401226).

VII. Vote on Whether or Not to Disclose and Possible Disclosure of Any/All Conversations Held in Closed Session Regarding Rossoff, supra.

MSC: Not to disclose the Board's discussion regarding the Rossoff case. (Justman/Mosbrucker: 4-0)

VIII. Report on Any Actions Taken in Closed Session Regarding Rossoff, supra, Pursuant to Government Code Section 54957.1{a}{2} and S.F. Administrative Code Section 67.14{b}{2}

Commissioner Becker reported that the Board held a Closed Session to discuss the Rossoff case with its attorneys.

IX. Public Hearing

Rossoff v. Rent Board: Proposed Amendments to Rules Section 6.11 Regarding Comparables Rent Increases

From 7:12 p.m. to 7:20 p.m., the Board held a Public Hearing on proposed amendments to Rules and Regulations Section 6.11(a) which would make it clear that comparables increases are only warranted in cases where the initial rent was set

low due to extraordinary circumstances unrelated to market conditions. Three individuals spoke as follows below:

1. Michael Rossoff reiterated that his main concern is that any change not be made retroactive, since he filed his petition over four years ago. He believes that there is confusion over what constitutes "non-market conditions."

2. Janan New, Director of the San Francisco Apartment Association, said that the Board shouldn't address Rules changes when cases under judicial review are still pending. Ms. New believes that the courts have made it clear that retroactivity is not permissible.

3. Brook Turner of the Coalition for Better Housing said that, as a procedural issue, retroactivity is unfair.

MSC: To deny the proposed amendments to Rules and Regulations
Section 6.11(a). (Justman/Gruber: 3-2; Becker, Mosbrucker
dissenting)

X. Consideration of Appeals

A. 405 Serrano Dr. #5d

AT030323

The tenant's appeal was filed almost one year late because the tenant alleges she did not receive a copy of the decision and did not know the passthrough had been approved until it was time for her lease renewal.

MSC: To recuse Commissioner Becker from consideration of this appeal.
(Marshall/Justman: 5-0)

MSC: To find good cause for the late filing of the appeal.
(Mosbrucker/Justman: 5-0)

The landlord's petition for certification of exterior painting costs in this multi-unit complex was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Murphy/Justman: 5-0)

B. 1080 Post St. #12

AT030329

The tenants' appeal was filed seven and one-half months late because the tenants do not speak English.

MSC: To find good cause for the late filing of the appeal.
(Justman/Marshall; 5-0)

The landlord's petition for certification of capital improvement costs to 8 of 15 units was granted. The tenants in one unit appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Marshall/Justman: 5-0)

C. 3655 Vicente, Apt. #2

AL030327

The tenant's appeal of a decision certifying capital improvement costs was granted and the Administrative Law Judge found sufficient financial hardship to warrant a permanent deferral of the passthrough for this tenant. The landlord appeals the remand decision, claiming that: a permanent deferral is not warranted by the tenant's medical conditions; the tenant is choosing to work part-time; credit card debt should not be a factor taken into consideration; the landlord's employment is considered full-time in an academic context; the building is in need of expensive repairs; and the tenant has other options available to him.

MSC: To deny the appeal. However, the tenant will need to file to re-open the case for a financial review every two years. In the event of extraordinary circumstances causing the landlord to believe that the tenant's financial circumstances have changed, the landlord may file to re-open the case earlier, not to exceed once per year.
(Gruber/Marshall: 5-0)

D. 1847 – 46th Ave.

AL030322

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$1,300.00. On appeal, the landlord asks for clarification as to the calculation of rent overcharges and anniversary date; states that there are factual inaccuracies in the decision; and alleges that the tenant testified incorrectly as to rent and utility charges.

MSC: To deny the appeal. (Gruber/Justman: 5-0)

E. 1408 California St.

AT030321

The tenant's petition alleging decreased housing services in the form of a defective toilet was denied because the Administrative Law Judge found no failure to act on the part of the landlord. The tenant appeals, asserting that: the landlord's agent lied and intimidated the property manager into providing false testimony at the hearing; the Administrative Law Judge exhibited bias towards the landlord; and the landlord should be held accountable for the 15-month period during which the toilet malfunctioned.

MSC: To deny the appeal. (Justman/Gruber: 3-2; Becker, Marshall dissenting)

F. 147 Stillman St.

AT030325 & -26

The landlord's petition for rent increases for two units based on comparable rents was granted and the Administrative Law Judge found that increases from \$1,050.00 to \$1,325.00 were warranted. On appeal, the tenants claim that the increases are excessive because of the location of the building, lack of amenities in the building and poor condition of the building.

MSC: To deny the appeals. (Marshall/Gruber: 5-0)

G. 537 Fillmore #2

AL030330

The tenants' petition alleging rent overpayments was granted and the landlords were found liable to the tenants in the amount of \$6,893.76 due to increases on the garage in excess of limitations. On appeal, the landlords claim that: the garage was not included with the unit at the inception of the tenancy, and all parties agreed that it would be kept separate; two separate leases were entered into, one for the unit and one for the garage; and annual rent increases have always been within rent control limitations on the unit, while the garage increases have always been at fair market value.

MSC: To deny the appeal. (Marshall/Justman: 5-0)

XI. Old Business

Review of the Commission on the Environment's List of Energy Conservation Improvements (Ordinance Section 37.7(c)(2))

The Board continued their discussion of whether future changes to the Commission on the Environment's List of Energy Conservation Improvements should be made without the approval of the Board of Supervisors but, rather, by the Rent Board through Rules and Regulations. Commissioner Becker reported that the Tenant Community would prefer that the Board of Supervisors retain jurisdiction over future changes to the list. The Rent Board therefore approved language drafted by Senior Administrative Law Judge Tim Lee amending the Rent Ordinance to incorporate the recommended improvements, and cross-referencing the List adopted by the Rent Board on September 30, 2003, which contains the amortization periods and terms and conditions for each improvement.

MSC: To recommend that the Board of Supervisors adopt draft amendments to Ordinance Section 37.7(c)(2) specifying additional qualified energy improvements and cross-referencing the Energy Conservation and Renewable Energy Improvement List approved by the Rent Board on September 30, 2003.
(Gruber/Murphy: 5-0)

X. Consideration of Appeals (cont.)

H. 486 Funston #302

AT030328

The tenant's appeal was filed nineteen days late because the tenant was in Australia at the time the decision was mailed, and experienced medical difficulties upon his return.

MSC: To find good cause for the late filing of the appeal.
(Gruber/Murphy: 4-0)

The landlord's petition for certification of capital improvement costs was granted. One tenant appeals the decision on the grounds that: the decision is in error as to the effective date of the rent increases; exterior stucco work on the side of the building has not been completed; and the tenant requests that he be allowed to elect the 100% passthrough option with a 15% cap since he has a good cause reason for not having done so at the time of the issuance of the decision.

MSC: To grant the appeal and remand the case for a Technical Correction and to allow the tenant to elect the 100% passthrough option; to deny the appeal as to all other issues. (Becker/Gruber: 4-0)

I. 22 Ashbury St.

AL030324

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$851.25. On appeal, the landlord asserts that the Administrative Law Judge is wrong on the facts, law and conclusions in the Decision.

MSC: To deny the appeal. (Gruber/Becker: 4-0)

J. 935 Geary #603

AT030314

(cont. from 10/28/03)

The landlord's petition for certification of capital improvement costs to 60 of 114 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Gruber/Marshall: 4-0)

K. 520 S. Van Ness #379

AL030320

The tenant's petition alleging decreased housing services because the residential hotel was in violation of the provisions of the Uniform Visitor Policy was granted and the landlord was found liable to the tenant in the amount of \$480.00. On appeal, the landlord maintains that: the value placed on the decreased housing services is unreasonable considering the amount of rent paid by the tenant; the hotel's Visitor Policy constitutes a reasonable interpretation of the Uniform Visitor Policy; there is no language in the Visitor Policy preventing a landlord from limiting visitors to one at a time; serious overcrowding and diminished quality of life would result from allowing each tenant to have two visitors at a time; the practice of limiting consecutive overnights takes into account the needs of the hotel to maintain health and safety and the rights of other tenants; and any relief granted should apply prospectively only.

After discussion, it was the consensus of the Board to continue consideration of this appeal to the next meeting, when a Neutral Commissioner will be present.

XII. Communications

In addition to correspondence concerning the proposed amendments to Rules Section 6.11, the Commissioners received the monthly workload statistics for October 2003, which failed to note the 5 petitions received for the Alternative Dispute Resolution Program.

IV. Remarks from the Public (cont.)

G. Landlord Jeffrey Katz of 1080 Post St. #12 (AT030329) posed several questions regarding the post-appeal process, and asked whether his response to the tenant's appeal had been considered. Mr. Katz considers the Board's actions in accepting an untimely hardship appeal to constitute a "taking."

XIII. Calendar Items

November 25, 2003 - NO MEETING

December 2, 2003

11 appeal considerations (1 cont. from 11/18/03)

XIV. Adjournment

Commissioner Becker adjourned the meeting at 8:55 p.m.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

October 31, 2003

NOTICE OF PUBLIC HEARING

103
KHIN MAI AUNG
LARRY BEACH BECKER
DAVID GUSTAV GRUBER
FREDERICK HOBSON
ANTHONY JUSTMAN
MERRIE T. LIGHTNER
NEVEO MOSSER
BARTHOLOMEW MURPHY

DATE: November 18, 2003

TIME: 6:30 P.M.

DOCUMENTS DEPT.

NOV 4 2003

SAN FRANCISCO
PUBLIC LIBRARY

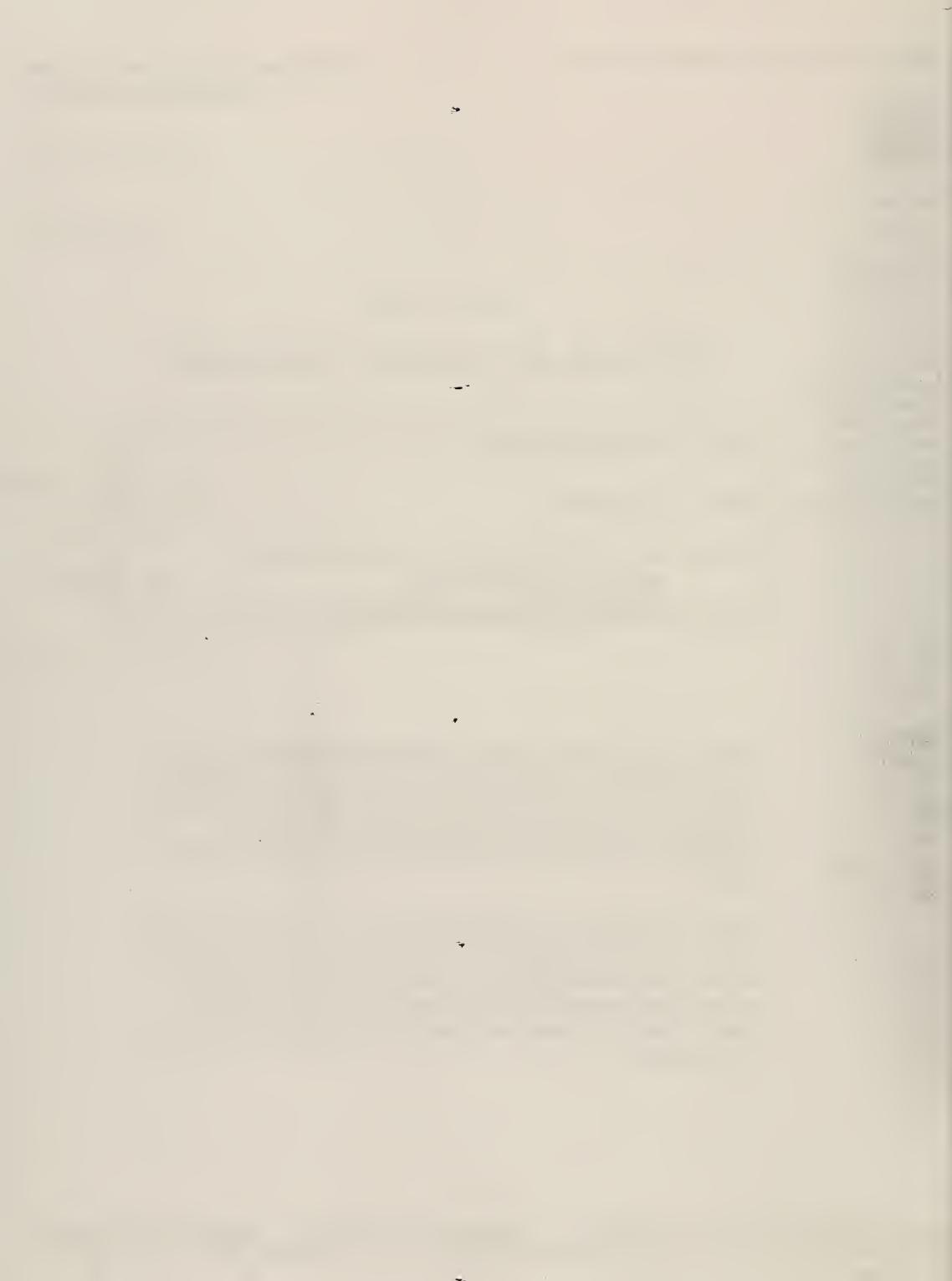
PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)
SUITE 70, LOWER LEVEL
SAN FRANCISCO, CALIFORNIA

11-04-03A11:18 RCVD

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC
TO COMMENT ON PROPOSED CHANGES TO THE RULES
AND REGULATIONS GOVERNING THE RESIDENTIAL RENT
STABILIZATION AND ARBITRATION ORDINANCE,
CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE
CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE
LANGUAGE THAT FOLLOWS AMENDING SECTION 6.11(a).
The proposed amendments are intended to clarify the intent and
purpose of this section. The Board will also be considering the
effective date of the amended regulation, and whether it will apply to
pending cases.





1 Rules and Regulations Section 6.11(a) is amended as follows (strikethrough for
2 deletions and double underline for additions): Note: Section (a) is the only portion of
3 this section being amended and therefore this version omits the balance of the section
4 not affected.

5

6 (a) Petition Based on Extraordinary Circumstances

7 (1) The provisions of this Section 6.11(a) shall apply only in-extraordinary
8 circumstances, including but not limited to the following situations:

9 (A) where, because of a special relationship between the landlord and
10 tenant, or ~~through due to~~ fraud, mental incompetency, or ~~some~~ other
11 ~~reason extraordinary circumstances unrelated to market conditions,~~ the
12 initial rent on a unit was set very low or the rent was not increased or
13 was increased only negligible amounts during the tenancy; or

14 (B) where the landlord became owner of record of a Proposition I
15 Affected Unit between September 1, 1993 and December 22, 1994, or
16 where the landlord entered into an agreement to purchase a Proposition I
17 Affected Unit which agreement became non-contingent on or after
18 September 1, 1993 and before November 9, 1994, and, in becoming
19 owner of record or entering into the purchase agreement, the landlord
20 relied on the ability to increase rents without limitation from the Rent
21 Ordinance.

22 Passage of Proposition I at the November 1994 election does not in
23 and of itself satisfy this Section 6.11(a)(1), though it may be
24 considered.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.
MAYOR

SHARON K. WASSERMAN
PRESIDENT

Tuesday, 6:00 p.m.,
December 2, 2003

JOSEPH GRUBB
EXECUTIVE DIRECTOR

POLLY MARSHALL
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

AGENDA

DEC - 2 2003

I. Call to Order

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

12-02-03A10:19 RCVD

III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 434 Leavenworth #506, 508 & 410 AT030340 thru -43

The tenants in three units appeal the decision certifying capital improvement costs on the grounds of financial hardship.

B. 747 Ellis #7

AT030336

The tenant appeals the remand decision denying his financial hardship appeal due to his failure to appear at the hearing.

C. 1360 Lombard #203

AT030334

The tenant untimely appeals the decision certifying capital improvement costs.

D. 1615 Jones St. #3

AL030332

The landlord appeals the remand decision granting a claim of decreased housing services.

E. 1166 Haight St. #5

AL030333

The landlord appeals the remand decision granting an appeal based on financial hardship.

F. 430 Duboce Ave.

AL030331



The landlord appeals the decision granting a claim of unlawful rent increase pursuant to Costa-Hawkins.

G. 1097 Revere Ave. AL030335

The landlord, a Master Tenant, appeals the decision granting a claim of unlawful rent increases.

H. 1935 Franklin St. #102 AL030337

The landlord appeals the decision refunding rent overpayments due to improper calculation of a PG&E passthrough.

I. 1310 Jones St., Apt. 104 AT030338

The tenant appeals the decision granting his claim that the PG&E passthrough had been improperly calculated.

J. 2730 Sacramento #3 AL030339

The landlord appeals the decision denying a rent increase pursuant to Rules Section 6.14 and/or Costa-Hawkins.

K. 520 So. Van Ness #379 AL030320
(cont. from 11/18/03)

The landlord appeals the decision granting a claim of decreased housing services due to the residential hotel's violation of the provisions of the Uniform Visitor Policy.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

Rules and Regulations Section 4.11

X. Calendar Items

XI. Adjournment

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, December 2, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

I. Call to Order

DEC 15 2003

KHIN MAI AUNG

LARRY BEACH BECKER

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Gruber; Marshall; Mosbrucker; Murphy;
Wasserman.

Commissioners not Present: Becker; Justman; Lightner; Mosser.
Staff Present: Gartzman; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of November 18, 2003.
(Marshall/Mosbrucker: 5-0)

IV. Remarks from the Public

A. Gary Near put forward several "constructive" suggestions regarding the Board's Notice of Appeal Consideration, including: the case number should be on the face of the notice; non-appealing parties should not be provided with a copy of the appeal by the Board because Mr. Near was under the impression that the appellant had to serve the respondent upon the filing of the appeal, which is only the case as to subsequent submissions; and it should be made clear that the appellant, as well as the respondent, can respond to the appeal. Mr. Near believes the Notice to be "defective." He also asked how the Board gets a copy of the proceedings below.

B. Landlord Nancy Robison of 2730 Sacramento #3 (AL030339) made the following points about her case: the residency factors applied by the Administrative Law Judge differ from those suggested to her by a Rent Board counselor, who said that the indices for determinations under Rules Sections 1.21 and 6.14 are the same; the ALJ failed to rule on the tenancy status of the other occupants of the unit; the ALJ misinterpreted and misapplied tax information and other evidence; and the tenant's son was a minor when Costa-Hawkins went into effect, and therefore was not a legal occupant of the unit until he turned eighteen.

C. Tenant Nancy Ellis of 1360 Lombard #204 told the Board that she has no means of support except for her IRA, and she would incur penalties and tax consequences for early withdrawal of her limited funds. Ms. Ellis believes long-term tenants such as her do not receive the benefits of rent control due to capital improvement passthroughs.



V. Consideration of Appeals

A. 434 Leavenworth #506, 508 & 410 AT030340 thru -43

The tenant in unit #506 appeals a decision certifying capital improvement costs almost seven months late because the tenant is not a native English speaker and was unaware of his right to appeal the decision on the grounds of financial hardship.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Mosbrucker: 5-0)

The landlord's petition for certification of capital improvement costs was granted. The tenants in three units appeal the decision on the grounds of financial hardship. The tenant in unit #506 also appeals a decision certifying capital improvement costs issued in April of this year on the same grounds.

MSC: To accept appeal numbers AT030340 and AT030341 of the tenant in unit #506 and remand the cases for a hearing on the tenant's claims of financial hardship. (Marshall/Mosbrucker: 4-1; Gruber dissenting)

MSC: To accept the appeal of the tenants in unit #508 and remand the case for a hearing on the tenants' claim of financial hardship.
(Mosbrucker/Marshall: 5-0)

MSC: To accept the appeal of the tenants in unit #410 and remand the case for a hearing on the tenants' claim of financial hardship.
(Marshall/Mosbrucker: 5-0)

B. 747 Ellis #7 AT030336

The tenant's appeal was filed almost ten months late because the tenant alleges he failed to receive both notice of the hearing and the remand decision on his hardship claim.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Mosbrucker: 5-0)

The landlord's petition for certification of capital improvement costs was granted. The tenant's appeal on the grounds of financial hardship was accepted and remanded for hearing. The tenant failed to appear at the properly noticed hearing and, accordingly, his appeal was denied. On further appeal, the tenant claims not to have received notice of the hearing nor the Decision on Remand, and reinstates his financial hardship claim.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Mosbrucker: 5-0)

C. 1360 Lombard, No. 204 AT030334

The tenant's appeal was filed two and one-half years late because the tenant had anticipated being able to obtain full-time employment, which she has been unable to do for health-related reasons.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Mosbrucker: 4-1; Gruber dissenting)

The landlord's petition for certification of the costs of a large weatherproofing job was granted, resulting in large passthroughs to the tenants in three buildings. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship, limited to the most recently phased-in portion of the capital improvement passthrough.
(Wasserman/Marshall: 4-1; Gruber dissenting)

D. 1615 Jones St. #3

AL030332

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$337.50 due to a kitchen sink leak and faulty electrical service. Both the landlord and tenant appealed, and the case was remanded only on the issue of the commencement date and duration of the rent reduction granted for the electrical work. In the Decision on Remand, the Administrative Law Judge reduced the amount of the landlord's liability for the faulty electrical service based on when the tenant provided notice of the problem to the landlord and when the landlord remedied the problem. The landlord appeals on the grounds that the tenant perjured himself at the original hearing on this matter.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

E. 1166 Haight #5

AL030333

The landlord's petition for certification of capital improvement costs was granted, resulting in a monthly passthrough in the amount of \$14.94. The tenant's appeal on the grounds of financial hardship was also granted, and the Administrative Law Judge found sufficient financial hardship to warrant permanent deferral of the passthrough. The landlord appeals the remand decision, asserting that: the tenant failed to meet the burden of proof regarding his hardship claim; no consideration has been given to the tenant's assets; the landlord is being asked to subsidize the tenant's "lifestyle choice"; and due process has not been provided to the landlord.

MSC: To deny the appeal. (Marshall/Mosbrucker: 3-2; Gruber, Murphy dissenting)

F. 430 Duboce Ave.

AL030331

The tenant's petition alleging an unlawful rent increase from \$609.15 to \$1,700.00 was granted because the Administrative Law Judge found that the tenant permanently resides at more than one residence, one of which is the subject unit, and therefore no Costa-Hawkins increase is warranted. On appeal, the landlord argues that: the original tenant has vacated the unit and currently lives with her husband in Antioch; the tenant's daughter is not an original occupant, having left the unit as a minor and returned as an adult; the facts of this case are distinguishable from Cobb v. S.F. Rent Board; and the tenant is pretending that she resides in the unit in order to provide her family members with a rent controlled unit.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to find that Maritza Palacios no longer permanently

resides in the unit, her daughter Carla Fuentes is no longer an original tenant, and to hold a hearing regarding the status of her son, Rigoberto Campos.
(Murphy/Gruber: 3-2; Marshall, Mosbrucker dissenting)

G. 1097 Revere Ave.

AL030335

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$10,548.80. The landlord in this case is a Master Tenant who rented this industrial space from the owner under a commercial lease, and passed on the rent increases that he received from the landlord to the subtenants. On appeal, the landlord maintains that: without the ability to pass through the rent increases he receives from the owner of the property, he will be unable to pay the rent and the subtenants will be forced to move; the base rent includes the percentage increases imposed by the building owner; the rent increases should be apportioned to the commercial portion of the tenancy; Rules Section 6.15C(3) allows for a proportional share of rent increases to be passed through to subtenants; the rent increases were given in good faith; the tenant is not current in the payment of rent and utilities; and there were no other tenants on the premises who would be entitled to a share of the overpayments.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the Master Tenant's claim of financial hardship. In the event that the hardship claim is found to be valid, a repayment plan shall be established and any sums found to be owing to the Master Tenant from the tenant shall be offset against the amount owing from the Master Tenant to the tenant.
(Gruber/Murphy: 5-0)

H. 1935 Franklin St. #102

AL030337

The tenant's petition challenging the calculation of PG&E and bond passthrough calculations was granted as to the PG&E passthrough. The Administrative Law Judge found that the landlord had failed to prove the calculations upon which the 2002 and 2003 passthroughs were based. On appeal, the landlord provides copies of some of the PG&E bills for the time periods in question.

MSC: To accept the appeal and remand the case to the Administrative Law Judge. The landlord has until the end of January 2004 to submit the records enumerated in the November 26th Memorandum of Administrative Law Judge and to organize the PG&E bills by account number, as well as in chronological order within each account, after which time the case shall be scheduled for a hearing. If the landlord fails to comply, the appeal will be denied.
(Gruber/Wasserman: 5-0)

I. 1310 Jones St., Apt. 104

AT030338

The tenant's appeal was filed one month late because, at the time the Decision was issued, there was no reason for the tenant to appeal.

MSC: To find good cause for the late filing of the appeal.
(Wasserman/Gruber: 5-0)

The tenant's petition alleging that the PG&E passthrough had been improperly calculated was granted, and sums in excess of the proper amount were ordered refunded to the tenant. On appeal, the tenant claims that another tenant in the building had the same facts but the entire passthrough was disallowed for that tenant, resulting in a much larger refund of rent overpayments.

MSC: To deny the appeal. (Wasserman/Gruber: 4-1;
Marshall dissenting)

J. 2730 Sacramento #3

AL030339

The landlord filed a petition seeking a determination as to whether a rent increase is justified pursuant to Rules Section 6.14 and/or Costa-Hawkins. The Administrative Law Judge found that no rent increase is warranted because the original tenants have not vacated the subject unit, and still permanently reside on the premises on at least a part-time basis. The landlord appeals, claiming that: the Administrative Law Judge failed to apply the standards found in Rules Section 1.21, nor did she provide an alternate standard; the Administrative Law Judge failed to make a determination as to the tenancy status of the other occupants of the unit; the Administrative Law Judge erred as to the implications of the tenant's tax returns and home loan application; the Administrative Law Judge failed to include and apply several key pieces of the landlord's evidence; and the Administrative Law Judge failed to require proof from the tenant as to how much time she spends in the unit.

MSC: To deny the appeal without prejudice to the landlord's filing a future petition should the circumstances change. (Murphy/Marshall: 5-0)

K. 520 S. Van Ness #379

AL030320

(cont. from 11/18/03)

The tenant's petition alleging decreased housing services because the residential hotel was in violation of the provisions of the Uniform Visitor Policy was granted and the landlord was found liable to the tenant in the amount of \$480.00. On appeal, the landlord maintains that: the value placed on the decreased housing services is unreasonable considering the amount of rent paid by the tenant; the hotel's Visitor Policy constitutes a reasonable interpretation of the Uniform Visitor Policy; there is no language in the Visitor Policy preventing a landlord from limiting visitors to one at a time; serious overcrowding and diminished quality of life would result from allowing each tenant to have two visitors at a time; the practice of limiting consecutive overnights takes into account the needs of the hotel to maintain health and safety and the rights of other tenants; and any relief granted should apply prospectively only.

In the absence of the Executive Director, who was going to do some research regarding sources of funding, consideration of this appeal was continued to the next meeting.

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a Memorandum from Senior Administrative Law Judge Sandy Gartzman regarding Rules and Regulations Section 4.11 (Utility Passthroughs) and an article from SFGate regarding the Board's new Alternative Dispute Resolution Program.

IV. Remarks from the Public (cont.)

D. Landlord Nancy Robison of 2730 Sacramento #3 (AL030339) said that a Rent Board counselor had advised her against getting an attorney, although certain of the Commissioners thought she ought to have done so. She stated her intention to file a petition pursuant to Rules Section 1.21 in order to obtain a determination as to the status of the original tenant, although she realizes that she will not be granted a rent increase as long as the tenant's son resides in the unit as his principal place of residence.

E. Landlord Representative Andy Braden spoke about the tenant hardship case at 1166 Haight St. #5 (AL030333). In that case, the landlord believed that the tenant was perpetrating a fraud because the only evidence he provided was selected checks. Mr. Braden said that the problem is that the Board's policies regarding hardship are not codified in the Rules and Regs., that there are no standards, and that the bigger issue is "how the Rent Board operates."

VII. New Business

Rules and Regulations Section 4.11 (Utility Passthroughs)

Senior Administrative Law Judge Sandy Gartzman reported to the Board that, at the request of Supervisor Peskin, the Land Use Committee of the Board of Supervisors convened a Public Hearing on November 24th to take testimony on the issue of PG&E passthroughs. At the conclusion of the hearing, Supervisor Peskin asked Rent Board staff to bring the various issues raised to the attention of the Rent Board Commissioners to consider possible amendments to §4.11. Some of the issues raised include: calculation Method 1 and Method 2 do not always yield the same result; whether base year costs should be indexed for inflation; whether PG&E costs are included in a tenant's initial base rent; whether allocating utility costs based on room count is fair; how to calculate coin-operated laundry facility and other costs attributable to commercial spaces; whether PG&E costs should be petitioned for individually or as part of an Operating and Maintenance Expense Petition; and whether the landlord should be required to take reasonable energy conservation measures in order to be eligible for a passthrough.

The Commissioners will consult with their constituencies and report back when this issue is discussed further at the January 6th meeting.

VIII. Calendar Items

December 9, 2003 - NO MEETING

December 16, 2003

7 appeal considerations (1 cont. from 12/2/03)

IX. Adjournment

President Wasserman adjourned the meeting at 8:12 p.m.

ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71-Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
December 16, 2003
25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

DEC 15 2003

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 2033 Turk St. AL030350

The landlords appeal the decision granting rent reductions due to leaks in the unit.

B. 1414 Taraval #2 AL030348

The landlords appeal the decision granting rent reductions due to a rodent infestation in the unit.

C. 1408 California AT030346 & -47

The tenants in two units appeal the decision certifying capital improvement costs.

D. 727-731 Florida St. #202 AL030344

The landlord appeals the decision granting claims of decreased housing services and unlawful rent increases.

E. 376 B 2nd Ave. AL030345

The landlord appeals the decision granting claims of decreased housing services and failure to repair.

F. 67 Fresno St. #9 AL030349

SAN FRANCISCO
PUBLIC LIBRARY

12-15-03 A11:30 RCM



The landlord appeals the decision granting a claim of unlawful rent increase pursuant to Rules Section 6.14 and Costa-Hawkins.

G. 520 So. Van Ness #379

AL030320

(cont. from 12/2/03)

The landlord appeals the decision granting a claim of decreased housing services due to the residential hotel's violation of the provisions of the Uniform Visitor Policy.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- IX. New Business
- X. Calendar Items
- XI. Adjournment

City and County of San Francisco



Residential Rent Stabilization and Arbitration Board

WILLIE L. BROWN, JR.

MAYOR

SHARON K. WASSERMAN
PRESIDENT

POLLY MARSHALL
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, December 16, 2003 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

I. Call to Order

DEC 31 2003

KHIN MAI AUNG
LARRY BEACH BECKER

DAVID GUSTAV GRUBER President Wasserman called the meeting to order at 6:17 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present:

Becker; Gruber; Henderson; Marshall;

Mosbrucker; Mosser; Wasserman.

Commissioners not Present:

Justman; Lightner.

Staff Present:

Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:27 p.m.

President Wasserman expressed the Board's welcome to new Alternate Tenant Commissioner Deborah Henderson. Additionally, since she was unable to attend the staff party, President Wasserman extended holiday wishes to the "hardest-working staff and best-run agency in town." Commissioner Becker asked that this be a resolution of the Board, which received no dissent.

III. Approval of the Minutes

MSC: To approve the Minutes of December 2, 2003.
(Becker/Gruber: 5-0)

IV. Remarks from the Public

Tenant Gary Near of 1408 California (AT030346 & -47) told the Commissioners that the opposing party has registered no objection to his "good cause" request for postponement of tonight's scheduled consideration of his appeal. Mr. Near believes that the Administrative Law Judge has a "statutory obligation" to respond to the Declaration submitted by seven tenants in the building.

V. Consideration of Appeals

A. 2033 Turk St.

AL030350

The tenant's petition alleging decreased housing services was granted and the landlords were found liable to the tenant in the amount of \$540.00 due to leaks in the unit. On appeal, the landlords claim that there is no decrease in services because there is no evidence of recent or current water intrusion into the unit.



MSC: To accept the appeal and remand the case to the Administrative Law Judge to re-open the record on the past and present status of the leaks in the unit; a hearing will be held only if necessary. (Wasserman/Gruber: 4-1; Becker dissenting)

B. 1414 Taraval #2

AL030348

The tenants' petition alleging decreased housing services was granted and the landlords were found liable to the tenants in the amount of \$120 due to a rodent infestation in the unit. On appeal, the landlords claim that: the delays in eradicating the problem were the fault of the tenants; the tenants failed to avail themselves of pest control items purchased for them by the landlords; and the tenants failed to make themselves available for the exterminator.

Since the landlords had provided an additional submission prior to the meeting that had not been timely served on the tenants, the Board voted as follows below:

MSC: To continue consideration of this appeal to the next meeting. (Murphy/Gruber: 4-1; Becker dissenting)

C. 1408 California

AT030346 & -47

The landlord's petition for certification of capital improvement costs to 24 of 37 units was granted, resulting in maximum monthly passthroughs in the amount of \$50.08. The tenants in two units appeal the decision, asserting that: a written transcript is necessary in order for the Board to decide the appeal, because of procedural irregularities, errors and abuses of discretion by the Administrative Law Judge; the landlord failed to prove the claimed costs and payment thereof; the evidence taken at the hearing is in conflict with the Findings and Conclusions in the Decision; the tenants' voluminous evidence was ignored; the tenants were denied their due process rights; and some of the landlord's evidence was fraudulent.

MSC: To deny the appeals. (Gruber/Murphy: 5-0)

D. 727-731 Florida St. #202

AL030344

The tenants' petition alleging unlawful rent increases and decreased housing services was granted and the landlord was found liable to the tenants in the amount of \$833.21 for rent overpayments and \$3,230.00 due to roof leaks and water and mold damage. The landlord appeals, asserting that: the tenants failed to provide conclusive proof of the allegedly unlawful rent increase; the tenants signed a General Release in settlement of the tenants' decreased housing claims; the roof was repaired within a reasonable amount of time, it was thought that patching had alleviated the problem, and delays were due to factors outside the landlord's control; the tenants failed to notify management of their complaints and have failed to cooperate with the landlord's repair attempts; the amount granted is excessive, considering the fact that it rains predominantly in the winter months; and the decision needs a Technical Correction as to the number of months for which the rent reduction was granted.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Murphy: 5-0)

MSC: To deny the appeal except to remand the case to the Administrative Law Judge for necessary Technical Corrections to the Decision. (Marshall/Henderson: 3-2; Gruber, Murphy dissenting)

E. 376 B 2nd Ave.

AL030345

The tenant's petition alleging decreased housing services and the landlord's failure to repair was granted and the landlord was found liable to the tenant in the amount of \$327.60 due to unsafe back stairs. An annual rent increase was also ordered deferred until the staircase is replaced. On appeal, the landlord claims that: the back stairs are to be used for emergencies only, and not for entering or exiting the building on a daily basis; the back stairs were always blocked by the tenant's belongings; delays have been caused by the Planning Department; a Notice of Violation was not issued; the tenant did not request the repairs; and the tenant is economically motivated.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Gruber/Marshall: 5-0)

MSC: To deny the appeal. (Marshall/Henderson: 3-2; Gruber, Murphy dissenting)

F. 67 Fresno St. #9

AL030349

The tenant's petition alleging an unlawful increase in rent from \$869.00 to \$1,500.00 was granted because the Administrative Law Judge found that the proposed rent increase was not warranted by Rules Section 6.14 or Costa-Hawkins. On appeal, the landlord maintains that: the Administrative Law Judge should have recused herself from hearing the case after discovering that she was related to the landlord; and the decision is contrary to the applicable law and not supported by substantial evidence.

MSC: To deny the appeal. (Marshall/Gruber: 5-0)

President Wasserman wished the Minutes to reflect that the Administrative Law Judge is not related to the landlord in this case.

G. 520 So. Van Ness #379

AL030320

(cont. from 12/2/03)

The tenant's petition alleging decreased housing services because the residential hotel was in violation of the provisions of the Uniform Visitor Policy was granted and the landlord was found liable to the tenant in the amount of \$480.00. On appeal, the landlord maintains that: the value placed on the decreased housing services is unreasonable considering the amount of rent paid by the tenant; the hotel's Visitor Policy constitutes a reasonable interpretation of the Uniform Visitor Policy; there is no language in the Visitor Policy preventing a landlord from limiting visitors to one at a time; serious overcrowding and diminished quality of life would result from allowing each tenant to have two visitors at a time; the practice of limiting consecutive overnights takes into account the needs of the hotel to maintain health and safety and the rights of other tenants; and any relief granted should apply prospectively only.

MSC: To recuse Commissioner Mosser from consideration of this appeal. (Becker/Murphy: 5-0)

MSC: To deny the appeal except to remand the case to the Administrative Law Judge to re-structure the rent overpayments so that the amount is recovered over a 12-month period at the rate of \$40 per month; a copy of the Decision shall be sent to the third party payor, if any.
(Marshall/Wasserman: 4-1; Gruber dissenting)

VI. Communications

The Board received several communications concerning cases on the calendar.

VII. Calendar Items

December 23 & 30, 2003 - NO MEETINGS

January 6, 2004

Executive Session:

Rossoff v. Rent Board (Superior Court Case No. 401226)
8 appeal considerations (1 cont. from 12/16/03)

Old Business:

- A. Rossoff v. Rent Board
- B. Rules and Regulations Section 4.11

VIII. Adjournment

President Wasserman adjourned the meeting at 7:44 p.m.

6b 2 1/2 ft.

HOUCHE
BINDERY LTD
UTICA/OMAHA NE.
2004

